DOCUMENT RESUME

ED 478 556 EC 309 706

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TITLE	Addressing the Needs of Youth with Disabilities in the Juvenile Justice System: The Current Status of Evidence-Based Research.
INSTITUTION	National Council on Disability, Washington, DC.
PUB DATE	2003-05-01
NOTE	220p.; Assistance provided by Ruth M. White.
AVAILABLE FROM	National Council on Disability, 1331 F St., N.W., Suite 1020, Washington, DC 20004. Tel: 202-272-2004; Tel: 202-272-2074 (TTY); Fax: 202-171-2022; Web site: http://www.ncd.gov. For full text: http://www.ncd.gov/newsroom/publications/pdf/juvenile.pdf.
PUB TYPE	Information Analyses (070) -- Reports - Evaluative (142)
EDRS PRICE	EDRS Price MF01/PC09 Plus Postage.
DESCRIPTORS	Adolescents; Children; *Delinquency; *Disabilities; Elementary Secondary Education; Federal Legislation; Incidence; Intervention; *Juvenile Justice; *Policy Formation; Prevention; Program Effectiveness; *Public Policy; Research and Development; Theory Practice Relationship; *Trend Analysis

ABSTRACT

This report summarizes the state of knowledge about children and youth with disabilities at risk of delinquency or already involved with the juvenile justice system. It reviews the existing research as well as perspectives of service providers, administrators, policy makers, and advocates. Following an executive summary and introductory chapter, chapters address the following topics: (1) background; (2) data and methodology; (3) current laws and philosophical framework; (4) disability, delinquency, and juvenile justice; (5) risk and protective factors associated with juvenile delinquency; (6) program and policy trends; (7) promising practices and criteria/measures of effectiveness; (8) implementation of disability law and programs (barriers and facilitators); and (9) recommendations. Recommendations urge identifying a range of strategies to promote compliance with federal disability law for at-risk children and youth; increasing funding and/or resources to schools and the juvenile justice system; designating a single federal agency whose sole focus is the needs of youth with disabilities entering the juvenile justice system; conducting research on the true prevalence of youth with disabilities across all stages of the juvenile justice system; and conducting an assessment to determine what programs and policies are most effective in schools, communities, and the juvenile justice system. Five appendices provide additional detail and list resources. (Contains approximately 200 references.) (DB)

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ED 478 556

National Council on Disability

May 1, 2003

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Addressing the Needs of Youth with Disabilities in the Juvenile Justice System: The Current Status of Evidence-Based Research

This report is also available in alternative formats and on NCD's award-winning Web site at www.ncd.gov.

Publication date: May 1, 2003

202-272-2004 Voice
202-272-2074 TTY
202-272-2022 Fax

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NATIONAL COUNCIL ON DISABILITY

An independent federal agency working with the President and Congress to increase the inclusion, independence, and empowerment of all Americans with disabilities.

Letter of Transmittal

May 1, 2003

The President
The White House
Washington, DC 20500

Dear Mr. President:

On behalf of the National Council on Disability (NCD), I am submitting a research study entitled *Addressing the Needs of Youth with Disabilities in the Juvenile Justice System: The Status of Evidence-Based Research.* Through this research study, NCD evaluates the emerging status of key policies and programs that affect children and youth with disabilities who have often been overlooked by service and research programs. The issues of delinquency prevention and juvenile justice as they relate to children and youth with disabilities are relatively new for policymakers, yet they present some of the most complex and challenging problems that policymakers must grapple with and resolve.

Over the past several years, NCD has recognized that children and youth with disabilities have increasingly become overrepresented in the juvenile justice system. A significant proportion of youth in the juvenile justice system have education-related disabilities and are eligible for special education and related services under the Individuals with Disabilities Education Act (IDEA). Factors associated with the disproportionate representation of youth with disabilities in juvenile corrections are complex—but the available information suggests that school failure, poorly developed social skills, and inadequate school and community supports greatly increase the risks for arrest and incarceration. NCD believes, therefore, that delinquency prevention is a critical feature of any service or support system that is used to address the needs of all youth, especially youth with disabilities and special education needs.

Without a clear understanding of what works, communities can become awash in a maze of programs and services that claim effectiveness in deterring delinquency yet have no factual information or evidence supporting their effectiveness. NCD believes that your Administration can use the findings and recommendations from this research study to help shape the scope and direction of future federal initiatives designed to tackle delinquency prevention and juvenile justice. Such initiatives, for example, fall under the purview of the Department of Education and the Department of Justice.

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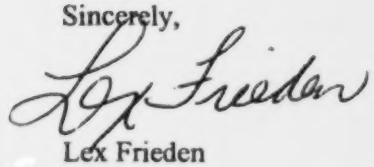
To that end, NCD stands ready to work with our sister agencies and other stakeholders inside and outside the government to use the information and analyses from this research study to devise strategies for delinquency prevention and juvenile justice that work.

Sincerely,



Lex Frieden
Chairperson

(The same letter of transmittal was sent to the President Pro Tempore of the U.S. Senate and the Speaker of the U.S. House of Representatives.)

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Acknowledgments

The National Council on Disability expresses its appreciation to Daniel P. Mears, Ph.D., senior research associate, Justice Policy Center; Laudan Aron, research associate; and Jenny Bernstein, research assistant, Labor and Social Policy Center, for drafting this report, with assistance from Ruth M. White, research associate, Justice Policy Center, for the Disability and Juvenile Justice project at the Urban Institute.

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Executive Summary

Overview

This report summarizes and assesses the state of knowledge about children and youth with disabilities who are at risk of delinquency and involvement in, or who have already entered, the juvenile justice system. By highlighting what is known about addressing delinquency and the diverse needs of this population, it aims to inform policy discussions among policymakers, practitioners, and researchers. The report's specific objectives are to examine

- current laws and philosophical frameworks affecting children and youth with disabilities who are at risk of delinquency or are involved in the juvenile justice system;
- the relationship between disability, delinquency, and involvement in the juvenile justice system;
- the factors associated with disability and delinquency;
- current and anticipated delinquency- and disability-related programming targeting children and youth with disabilities who may enter or who are in the juvenile justice system;
- the effectiveness of prevention, intervention and treatment, and management strategies for reducing delinquency and addressing disability-related needs among this population of children and youth;
- barriers and facilitators to implementing effective strategies for helping these children and youth; and
- recommended "next steps" for increasing the scope and quality of knowledge and practice for reducing delinquency among and addressing the disability-related needs of at-risk children and youth with disabilities.

To achieve these objectives, the report provides a systematic, multidimensional review of existing research and includes insights provided by service providers, administrators, policymakers, advocates, and researchers. The report examines a range of interrelated issues to establish a broad-based foundation—a portrait of the "forest"—for understanding what is and is not known about children and youth with disabilities who are at risk of delinquency or juvenile justice involvement or are already involved in the justice system.

The term "delinquency" here refers to violations of law by individuals legally defined as "juveniles." Typically, state laws use specific age ranges (e.g., 10 to 17) as the sole criterion for determining whether an individual is a "juvenile" and thus subject to processing in the juvenile rather than adult justice system. Violations include status offenses (i.e., acts, such as running away from home or truancy, that only youth, by dint of their "status" as juveniles, can commit) and nonstatus offenses (i.e., acts, such as robbery and theft, that would be crimes if committed by adults). For the purposes of this report, a youth is delinquent if he or she has committed a status or nonstatus offense, whether or not the offense results in a referral to court. Youth who are "involved in the juvenile justice system" can include individuals in short-term detention, probation, long-term secure custody, residential treatment facilities, and aftercare/parole.

This report focuses on several groups of children and youth with disabilities: (1) those who have never committed a delinquent act but are at risk of doing so; (2) those who are engaged in delinquency but have not yet become involved in the juvenile justice system; and (3) those who are or have been involved in the juvenile justice system. All three groups by definition are at risk of delinquency and, by extension, involvement (or further involvement) in the juvenile justice system. In each group, the presence of a disability may or may not contribute to delinquency or a greater likelihood of juvenile justice system involvement (e.g., school referrals to juvenile courts); research suggests that both are possibilities. Regardless, federal law mandates that the civil rights of children and youth with disabilities be protected, including receiving special education and other disability-related services. This report therefore examines not only the issue of preventing or reducing delinquency among these different groups but also the provision of required services. The primary focus is on the juvenile justice system. However, schools also are

considered because of their potential role in preventing delinquency and referrals to juvenile courts, as well as facilitating transitions from custodial facilities back into communities.

Background

There is a tremendous gap in empirically based knowledge about children and youth with disabilities, especially those who are either at risk of delinquency or involved in the juvenile justice system. This gap covers a wide spectrum of largely unanswered questions involving distinct sets of policy issues. These issues range from the potentially conflicting philosophies underlying existing laws to what is known about effective prevention, intervention, and delinquency management strategies and efforts to ensure that the rights and needs of children and youth with disabilities are addressed. The objectives of this report cover distinct sets of policy-relevant questions that parallel areas in which significant gaps currently exist.

The report asks, for example, to what extent the philosophies of disability law and juvenile justice policies are contradictory or complementary. How, if at all, are disabilities linked to delinquency, and how are disabilities linked to juvenile justice system involvement, irrespective of any possible causal relationship between disabilities and delinquency? Are the causes of delinquency the same for youth with disabilities and those without disabilities?

From the standpoint of policies for reducing the number of youth with disabilities in the juvenile justice system, what exactly is the need for such policies? For example, what is the prevalence of youth with disabilities throughout all stages of the juvenile justice system? If youth with disabilities are overrepresented in the justice system, is this in any way linked to school-based practices and programming? How might the racial/ethnic dimensions of delinquency and juvenile justice processing contribute to a greater involvement of youth with disabilities in the juvenile justice system?

From a related policy standpoint, what exactly is the needs/services gap? What, for example, are the current or anticipated types and levels of programming for youth with disabilities who are at risk of delinquency or who are involved in the juvenile justice system, and how do these levels

differ from the demand for them? Regardless of any gap, what are effective prevention, intervention and treatment, and delinquency management strategies for this population? Are federal laws effective in facilitating the identification of and provision of services to them? More generally, what are the barriers to and facilitators of implementing effective strategies for addressing their needs, and what are the next steps that should be taken to improve knowledge and practice?

The review for this report suggests partial answers to some of these questions. It also reveals that few systematic overviews of these diverse questions have been conducted. Most studies have investigated delimited parts of each question. The present report thus fills an important void by highlighting the wide range of questions and issues that policymakers, practitioners, and others may want to consider as they create and evaluate new programs and policies or pursue specific research agendas.

Findings

The results of the review and interviews are summarized along seven dimensions, collectively addressing the goal and objectives of this report. The overarching finding was that considerably more empirical research is needed. The report documented, for example, that there is relatively little quality research on almost every dimension that was examined, from the prevalence of disabilities at various stages of the juvenile justice system to the levels and impacts of federal efforts to enforce compliance with disability law. However, it also identified many practices and policies that schools, communities, and the juvenile justice system can undertake that may have a significant impact on preventing and reducing delinquency among children and youth with disabilities, and that may help ensure that their disability-related needs are addressed.

The major findings of the National Council on Disability's (NCD) research are as follows:

- Despite calls for greater prevention and early intervention initiatives in schools and the juvenile justice system, there is little evidence that past, current, or proposed laws will

suffice to create this change or to overcome the many conflicting perspectives about youth with disabilities or young offenders.

- Any challenges to implementing disability law in schools are magnified in the juvenile justice system, where there is little understanding of disabilities or disability law and where few resources exist to adequately address the needs of youth with disabilities.

- Most sources suggest that many schools are not providing legally required services to youth with disabilities. The needs/services gap appears to be even greater in the juvenile justice system, where the primary focus is on sanctioning youth for their delinquent behavior, not on providing services. Systematic, empirical documentation of these gaps does not currently exist or is not readily available.

- There are many opportunities for improving both research and practice. However, the existence of such opportunities by themselves is insufficient to result in a change in the levels and quality of programming and enforcement of juvenile justice and disability law.

- Some research and anecdotal evidence suggests that as schools have become more restrictive and punitive (e.g., zero tolerance approaches to misbehavior), they have increasingly pushed greater numbers of youth with disabilities into the juvenile justice system. Many observers speculate that the failure of many schools to fully and consistently implement federal law, especially the Individuals with Disabilities Education Act, has contributed to this process.

- Few local, state, or national organizations maintain consistent or reliable records of the types and levels of services or funding of programs that focus on youth with disabilities who are at risk of entering or involved in the juvenile justice system.

- Despite calls for significant prevention and early intervention efforts in schools and the juvenile justice system, there is little evidence that such efforts are widespread. The absence is notable because research suggests that such programming may be the only

effective method for reducing the involvement of youth with disabilities in the juvenile justice system, especially in the "deeper end" of the system (e.g., correctional facilities).

- Racial/ethnic minorities, including Native American youth, are overrepresented at most stages of the juvenile justice system and among the population of youth with disabilities. Yet, there is little evidence that juvenile justice systems are providing appropriate disability-related programming for this population, or that they have developed culturally appropriate approaches for these youth.

- A range of increasingly popular intervention strategies and trends exists in schools and the juvenile justice system. Although some explicitly focus on youth with disabilities, many more diffusely focus on youth with behavioral problems. The more popular disability and delinquency intervention strategies and trends include positive behavioral support treatment; alternative education; diversion from the juvenile justice system; restorative justice; specialized youth courts; and greater intra- and interagency information-sharing.

- Researchers have not systematically identified and assessed interventions or practices that focus primarily on youth with disabilities who are at risk of delinquency or are involved in the juvenile justice system. As a result, there remains little scientific basis for recommending specific programs for these youth.

The major recommendations NCD makes are to

- Identify a range of strategies to enforce and promote compliance with federal disability law as it relates to children and youth with disabilities who are at-risk of delinquency. The strategies should include those that increase effective programming for youth with disabilities in schools and in juvenile justice settings.

- Increase funding and/or resources to schools and the juvenile justice system to ensure that youth with disabilities receive appropriate services.

- Designate a single federal agency whose sole focus is to ensure that the rights and needs of youth with disabilities entering or in the juvenile justice system are addressed. The Coordinating Council on Juvenile Justice and Delinquency Prevention and the President's Task Force on Disadvantaged Youth may be well-suited to provide the direction and leadership to address this gap by helping to create a national commission focused explicitly on youth with disabilities at risk of entering or already in the juvenile justice system.

- Conduct research that focuses on establishing the true prevalence of youth with disabilities of different types among at-risk populations in schools and across all stages of the juvenile justice system; the needs/services gap, including compliance with disability law; the causes of overrepresentation, where it exists, of youth with disabilities in the juvenile justice system, especially correctional facilities; and effective systems-level and program-level approaches, including federal laws, for addressing the needs of these youth, including particular attention to the types of programming most effective for youth from diverse racial/ethnic and cultural backgrounds.

- Undertake a comprehensive assessment to determine what programs and policies are most effective in schools, communities, and the juvenile justice system. At the same time, ensure that there is a balanced approach to funding diverse programs and policies, coupled with evaluation research studies of their effectiveness. Such an approach will ensure that a more definitive body of knowledge can develop to determine "what works" and for whom.

Conclusions

There is a tremendous gap in empirically based knowledge about children and youth with disabilities, especially those who are either at risk of delinquency or involved in the juvenile justice system. This gap covers a wide spectrum of largely unanswered questions involving distinct sets of policy issues. These issues range from the potentially conflicting philosophies underlying existing laws to what is known about effective prevention, intervention, and

delinquency management strategies and efforts to ensure that the rights and needs of children and youth with disabilities are addressed.

The bulk of research on the children and youth of focus in this report—those with disabilities who are at risk of delinquency or involved in the juvenile justice system—provides a relatively weak foundation for drawing sound empirical generalizations. For example, one of the only relatively well-studied issues relating to this population is the prevalence of disabilities among incarcerated youth. NCD's research suggests that disabilities, especially learning disabilities and serious emotional disorders, are far more common among incarcerated youth than among youth in schools. Yet this research, too, suffers from inconsistent definitions and measurements. In addition, it provides a weak foundation for making generalizations about youth in other parts of the juvenile justice system, including probation, parole, and nonsecure residential treatment facilities. These problems are even more endemic in the other areas covered in this report.

This report has many implications for research and policies focused on children and youth with disabilities who are at risk of delinquency or justice system involvement or who are already involved in the juvenile justice system. The challenges are numerous, but in almost all instances the need for more and better research is clear. Which areas should be prioritized must ultimately be determined by policymakers and practitioners. Clearly, a more complete and accurate portrait of the kinds of disabilities present among youth referred to the juvenile justice system is needed. At the same time, research is needed on the extent to which youth with disabilities are having their needs addressed at all stages of the juvenile justice system. Research is needed as well on effective programming. Which areas require greater attention can be determined only by the priorities of specific stakeholders (e.g., schools, probation departments, correctional facilities, communities). However, advances in knowledge in any of these areas likely will contribute to a greater ability to decrease delinquency among children and youth with disabilities, to ensure that the needs of these children and youth are effectively addressed, and to enhance positive physical, mental, educational, and other life outcomes among this population.

1. Introduction

This report summarizes and assesses the state of knowledge about children and youth with disabilities who are at risk of delinquency and involvement in, or who have already entered, the juvenile justice system. By highlighting what is known about addressing delinquency and the diverse needs of this population, it aims to inform policy discussions among policymakers, practitioners, and researchers. The report's specific objectives are to examine

- current laws and philosophical frameworks affecting children and youth with disabilities who are at risk of delinquency or are involved in the juvenile justice system;
- the relationship between disability, delinquency, and involvement in the juvenile justice system;
- the factors associated with disability and delinquency;
- current and anticipated delinquency- and disability-related programming targeting children and youth with disabilities who may enter or who are in the juvenile justice system;
- the effectiveness of prevention, intervention and treatment, and management strategies for reducing delinquency and addressing disability-related needs among this population of children and youth;
- barriers and facilitators to implementing effective strategies for helping these children and youth; and
- recommended "next steps" for increasing the scope and quality of knowledge and practice for reducing delinquency among and addressing the disability-related needs of at-risk children and youth with disabilities.

To achieve these objectives, the report provides a systematic, multidimensional review of existing research and includes insights provided by service providers, administrators, policymakers, advocates, and researchers. The report examines a range of interrelated issues to establish a broad-based foundation—a portrait of the "forest"—for understanding what is and is not known about children and youth with disabilities who are at risk of delinquency or juvenile justice involvement or are already involved in the justice system.

Because there is no universally accepted definition, and thus measurement, of disability among children and youth, the report relies on the different definitions used in existing research. Federal legislative acts, professional organizations, social service and health agencies, schools, and various programs employ different terms, define the same terms differently, and use different types of information and approaches to diagnose and classify disabilities.

The term "delinquency" here refers to violations of law by individuals legally defined as "juveniles." Typically, state laws use specific age ranges (e.g., 10 to 17) as the sole criterion for determining whether an individual is a "juvenile" and thus subject to processing in the juvenile rather than adult justice system. Violations include status offenses (i.e., acts, such as running away from home or truancy, that only youth, by dint of their "status" as juveniles, can commit) and nonstatus offenses (i.e., acts, such as robbery and theft, that would be crimes if committed by adults). For the purposes of this report, a youth is delinquent if he or she has committed a status or nonstatus offense, whether or not the offense results in a referral to court. Youth who are "involved in the juvenile justice system" can include individuals in short-term detention, probation, long-term secure custody, residential treatment facilities, and aftercare/parole.

This report focuses on several groups of children and youth with disabilities: (1) those who have never committed a delinquent act but are at risk of doing so; (2) those who are engaged in delinquency but have not yet become involved in the juvenile justice system; and (3) those who are or have been involved in the juvenile justice system. All three groups by definition are at risk of delinquency and, by extension, involvement (or further involvement) in the juvenile justice system. In each group, the presence of a disability may or may not contribute to delinquency or a greater likelihood of juvenile justice system involvement (e.g., school referrals to juvenile

courts); research suggests that both are possibilities. Regardless, federal law mandates that the civil rights of children and youth with disabilities be protected, including receiving special education and other disability-related services. This report therefore examines not only the issue of preventing or reducing delinquency among these different groups but also the provision of required services. The primary focus is on the juvenile justice system. However, schools also are considered because of their potential role in preventing delinquency and referrals to juvenile courts, as well as facilitating transitions from custodial facilities back into communities.

Definitional and measurement issues are critical to virtually all of the objectives of this report. They affect tasks such as identifying the prevalence of disabilities among youth at risk of delinquency or involved in the juvenile justice system. Consistent definitions also are necessary to help determine the most effective interventions and policies for youth with specific types of disabilities at specific stages of juvenile justice. They help generate basic knowledge about whether disabilities are causally related to delinquency or to processing in the juvenile justice system. They are, more generally, critical for assessing the impacts of virtually any initiative aimed at reducing delinquency among youth with disabilities or ensuring that their needs and federally mandated rights are addressed. It should be emphasized that the lack of consistent definitions and measurements of many key terms—disabilities, delinquency, juvenile justice, programs or interventions, policies, laws—makes summaries or comparisons of existing research difficult and in some cases impossible.

The vast bulk of research on the children and youth of focus in this report—those with disabilities who are at risk of delinquency or involved in the juvenile justice systems—provides a relatively weak foundation for drawing sound empirical generalizations. For example, one of the only relatively well-studied issues relating to this population is the prevalence of disabilities among incarcerated youth. This research suggests that disabilities, especially learning disabilities and serious emotional disorders, are far more common among incarcerated youth than among youth in schools. Yet this research, too, suffers from inconsistent definitions and measurements, a problem that permeates much of the extant literature. In addition, it provides a weak foundation for making generalizations about youth in other parts of the juvenile justice system, including

probation, parole, and nonsecure residential treatment facilities. These problems are even more endemic in the other areas covered in this report.

The report begins by providing the rationale for examining disability, delinquency, and juvenile justice (Chapter 2), and then briefly discusses the data and methodologies that were used (Chapter 3). The remainder of the report summarizes information about each of the seven objectives. Chapter 4, for example, describes the current laws and philosophical frameworks affecting children and youth with disabilities in schools and the juvenile justice system. Chapter 5 reviews what is known about the relationship between disability, delinquency, and the involvement of children and youth with disabilities in the juvenile justice system. It also examines the racial/ethnic dimensions of this involvement and possible links to both delinquency and disabilities. Chapter 6 briefly outlines some of the factors known to be associated with delinquency and disabilities. Chapter 7 discusses current and anticipated programming initiatives for the prevention, intervention and treatment, and management of delinquency among and the provision of services to children and youth with disabilities. This chapter includes a discussion of programming for Native American youth because of their unique context and experiences. Chapter 8 summarizes the research literature and views of individuals interviewed for this project about the effectiveness of prevention, intervention and treatment, and management strategies to reduce delinquency among children and youth with disabilities and to address their disability-related needs. This chapter also discusses measures of effectiveness. Chapter 9 identifies the lessons learned about barriers to and facilitators of implementing effective strategies focused on children and youth with disabilities. Chapter 10 outlines a series of recommendations, or "next steps," for increasing the scope and quality of knowledge and practice for preventing or reducing delinquency and addressing the needs of children and youth with disabilities who are at risk of delinquency or justice system involvement or who are already involved in the juvenile justice system. Chapter 11 provides a brief synopsis of the report and its main findings.

The appendices provide additional information. Appendix A includes the figures and tables referenced throughout the report. Appendix B provides a list of Web sites that provide information on a range of issues directly or indirectly bearing on youth with disabilities and their

involvement in the juvenile justice system. Appendix C supplies the interview protocol. And Appendix D consists of illustrations of programs cited throughout the report, as well as several case studies that describe specific programs in more detail. Appendix E contains the Mission of the National Council on Disability.

2. Background

There is a tremendous gap in empirically based knowledge about children and youth with disabilities, especially those who are either at risk of delinquency or involved in the juvenile justice system. This gap covers a wide spectrum of largely unanswered questions involving distinct sets of policy issues. These issues range from the potentially conflicting philosophies underlying existing laws to what is known about effective prevention, intervention, and delinquency management strategies and efforts to ensure that the rights and needs of children and youth with disabilities are addressed. The objectives of this report cover distinct sets of policy-relevant questions that parallel areas in which significant gaps currently exist.

The report asks, for example, to what extent the philosophies of disability law and juvenile justice policies are contradictory or complementary. How, if at all, are disabilities linked to delinquency? As the report will discuss, some studies suggest that youth with disabilities are overrepresented in juvenile correctional facilities (Murphy 1986; Brier 1989; Winters 1997; Robinson and Rapport 1999; National Center on Education, Disability and Juvenile Justice 2001; U.S. Department of Education 2001). But is this information generalizable to other parts of the juvenile justice system? Does it reveal anything about a causal relationship between disabilities and delinquency, or possibly a pattern of differential referral and processing of youth with disabilities? For example, these youth may be incarcerated because of misunderstandings about their behaviors and how the behaviors are linked to disabilities.

From the standpoint of policies for reducing the number of youth with disabilities in the juvenile justice system, what exactly is the need for such policies? For example, what is the prevalence of youth with disabilities throughout all stages of the juvenile justice system? If youth with disabilities are overrepresented in the justice system, is this in any way linked to school-based practices and programming? How might the racial/ethnic dimensions of delinquency and juvenile justice processing contribute to a greater involvement of youth with disabilities in the juvenile justice system?

From a related policy standpoint, what exactly is the needs/services gap? What, for example, are the current or anticipated types and levels of programming for youth with disabilities who are at risk of delinquency or who are involved in the juvenile justice system, and how do these levels differ from the amount of demand for them? Research suggests that youth with disabilities and youth who are delinquent have a range of specialized needs (Loeber and Farrington 2001). It can be expected therefore that even if the proportion of justice-involved youth with disabilities is small, there will be a need for appropriate services.

Regardless of any gap, what are effective prevention, intervention and treatment, and delinquency management strategies for this population? Are federal laws effective in facilitating the identification of and provision of services to them? More generally, what are the barriers to and facilitators of implementing effective strategies for addressing their needs, and what are the next steps that should be taken to improve knowledge and practice? We know, for example, that historically the juvenile justice system has focused on the "best interests" of youth more so than their punishment (Feld 1999; Butts and Mitchell 2000). But most juvenile justice systems increasingly have focused on punishment, and few have the resources to provide treatment and rehabilitative services to all who need them. What are the impacts of these changes on how the needs of youth with disabilities are addressed, including those legally required by law (Burrell and Warboys 2000)?

The review for this report suggests partial answers to some of these questions. It also reveals that few systematic overviews of these diverse questions have been conducted. Most studies have investigated delimited parts of each question. The present report thus fills an important void by highlighting the wide range of questions and issues that policymakers, practitioners, and others may want to consider as they create and evaluate new programs and policies or pursue specific research agendas.

3. Data and Methodology

Three sources of information were used for this report: a review of literature, interviews with knowledgeable stakeholders, and case studies of particular programs. It should be emphasized that this report uncovered no new facts, but rather summarized what existing research and some observers of disability law and juvenile justice say about each of the seven objectives that are the focus of this report. The different approaches are briefly described below.

3.1 Literature Review

This report is based primarily on a review of a range of materials, with emphasis placed on those that summarized empirical research on specific topics. The materials included

- journal articles, newsletters, and other materials published by various government and private agencies, research centers, and professional associations;
- federal, national, and state/local resources, especially U.S. General Accounting Office and U.S. Department of Education reports;
- materials available on the Internet (e.g., the Children with Disabilities Web site established by the Coordinating Council on Juvenile Justice and Delinquency Prevention); and
- consultations with knowledgeable service providers, agencies, policymakers, advocates, and researchers about disability/delinquency issues.

Many of these sources provided meta-analyses or other types of systematic reviews of empirical research. Others drew primarily on anecdotal accounts about particular issues. Such information provides a limited foundation for making generalizations, but it nonetheless can provide important insights about potential patterns and trends, especially in areas where little empirical

research exists. Throughout the report, every effort is made to distinguish between well-established facts supported by empirical research and those that are not.

The scope of the report dictated taking a broad-based approach rather than providing an in-depth analysis of any one issue or identifying and analyzing information from specific jurisdictions. It thus focused on materials that were readily available; consequently, some sources that may speak directly to some of the issues in this report may have been missed. In addition, many of the questions addressed in this report might be better addressed through a series of in-depth studies that involve the collection and analysis of data from diverse sources. Although the review identified few such readily available data sources, they may well exist and provide a more solid empirical foundation for assessing the questions reviewed in this report. (Appendix B provides a list of Web-based resources that were used in this review and that provide links to a wealth of information on children and youth with disabilities.)

It should be emphasized that the traditional focus of the juvenile justice system has been to serve the "best interests" of youth. To this end, even in the recent era of "get tough" policies, many juvenile justice systems retain a broad-based orientation aimed not only at preventing and reducing delinquency but also at addressing the diverse needs of at-risk youth and young offenders. Therefore, in the examination of the state of programming for youth with disabilities in the juvenile justice system, the report reviewed delinquency intervention programs and policies, as well as disability-related programming efforts that are required by law. This approach was indicated as well because relatively little empirical information is available on levels and types of programming in juvenile justice systems.

The review of literature identified research and practices that focus on both "children" and "youth." Within juvenile justice, the distinction between children and youth is a legal one, with the definition of a "juvenile" varying from state to state. Generally, most states label youth who are between ages 10 and 17 as "juveniles." Developmental and criminological research generally adopt nonlegal criteria for determining whether an individual is a "child" or "youth." However, these criteria vary tremendously, as do the definitions employed for defining disabilities. For this

reason, it should be kept in mind that specific literatures employ different criteria for defining these terms and that not all programs or policies apply to all children and youth.

A similar caution applies to use of the term "juvenile justice." As used here, the term can encompass court intake, diversion and community-based programs, probation, secure and nonsecure residential placement, and parole. It also can encompass local, community-based, state, national, and tribal juvenile justice interventions, where "interventions" refer to prevention, intervention and treatment, and delinquency management strategies.

3.2 Interviews

As part of the investigation into what is known about disability and juvenile justice, interviews were conducted with a range of stakeholders. The goal of these interviews was primarily to identify general sets of issues and insights that might not be readily obtained from the review of literature. They were not meant to be necessarily generalizable or to represent all relevant viewpoints or populations. For example, the researchers did not interview families or children with disabilities. These and other perspectives may well have provided additional and important insights, but time and resources precluded conducting additional interviews. Every attempt was made, however, to draw on published resources that included interviews and analyses of diverse populations of persons with disabilities.

In all, 10 formal interviews and approximately 10 additional informal interviews were conducted by researchers at the Urban Institute. In each instance, the questions focused on a range of issues bearing on children and youth with disabilities in the juvenile justice system or at risk of entering it. The researchers inquired about issues specific to the knowledge base of each individual (e.g., prevalence of disabilities among youth incarcerated in juvenile correctional facilities, effective prevention programming, special needs of youth with disabilities, trends in laws bearing on children and youth with disabilities and their families). The specific questions that guided both the formal and informal interviews are provided in Appendix C.

The researchers promised to maintain the anonymity of all respondents to encourage respondents to be as candid as possible in their assessments. The interviews were not taped and no names were recorded. In most instances, two researchers were present and took notes that they later transcribed and compared concerning the general points raised during the interview. Although not necessarily representative of all views on the issue of youth with disabilities engaging in or at risk of delinquency, the individuals with whom the researchers spoke nonetheless provided a diverse range of perspectives. Some, for example, were highly supportive of federal disability law, while others were critical of it. Summaries of the key themes identified by the respondents are provided in Appendix A.

3.3 Case Studies

In addition to the literature review and the interviews, this report includes case studies of selected community-based strategies for addressing delinquency among children and youth with disabilities (see Appendix D). The case studies were selected on the advice of practitioners and researchers, the availability of sufficient documentation to allow the identified approaches to be replicated in other sites, and whether the program or policy currently is reported to be a best or promising practice. Taken as a whole, the case studies capture distinct approaches to help youth with disabilities before or after they enter the juvenile justice system. They do not represent all possible approaches, nor are they necessarily representative "best practices." More comprehensive and detailed discussions of delinquency or disability programs and policies, as well as initiatives focused explicitly on youth with disabilities who are in or may enter the juvenile justice system, can be found in sources cited throughout the report (see, e.g., Howell 1995; Coordinating Council on Juvenile Justice and Delinquency Prevention 1996; Sherman et al. 1997; Finn et al. 2001; Larson and Turner 2002).

In addition to the examination of relevant and available reports and articles, some of the interviews were used to provide further depth to these exploratory, program-specific investigations. The goal was to identify potential factors that may inform national policy

concerning barriers to and facilitation of implementation of federal law and best or promising practices.

It should be emphasized that few sources document the full spectrum of services, programs, and policies serving youth with disabilities at risk of delinquency or involved in the juvenile justice system. It is possible that such information is compiled in some jurisdictions. However, this review found no sources of information that provided this type of comprehensive, systematic documentation. One reasonable conclusion, therefore, is that there is a need for such documentation to determine the kinds and levels of practice, juxtaposed against the kinds and amount of demand, to determine what particular steps should be taken to improve services for youth with disabilities in or at risk of entering the juvenile justice system.

4. Current Laws and Philosophical Frameworks

This chapter examines historical and recent trends in laws and philosophical frameworks bearing on children and youth with disabilities at risk of delinquency or involved in the juvenile justice system. It begins by reviewing the leading trends in disability law and then briefly describes the juvenile justice system and its traditional and current orientations toward youth.

4.1 Disability Law

There has been a considerable shift in disability law and public policy over the past three decades, and many of the changes have affected children and youth with disabilities and their families. Prior to the 1970s there were no major federal laws specifically protecting the civil and constitutional rights of Americans with disabilities. Most public policies affecting people with disabilities were directed at veterans with disabilities returning home from two world wars. The civil rights movement of the 1960s, however, led to a shift in the "disability rights movement," from one primarily focused on social and therapeutic services to one focused on political and civil rights. A full treatment of the history of the disability rights can be found in Longmore and Umansky (2000).

Section 504 of the Rehabilitation Act of 1973

The passage of the Rehabilitation Act of 1973 marked a critical turning point in the "disability rights movement." Section 504 of this Act banned recipients of federal funds from discriminating against people with disabilities. This was the first law stating that the exclusion or segregation of an individual with a disability constituted discrimination. It contributed to a change in commonly held assumptions that problems faced by people with disabilities—such as unemployment, underemployment, and low educational attainment—were the inevitable result of limitations stemming from the disability itself rather than societal barriers or prejudices.

Section 504 was important in part because for the first time people with disabilities were viewed as a distinct class of people, a minority group. It was premised on the recognition that while diverse in their physical and mental abilities, people with disabilities faced discrimination in employment, education, and access to society. This "class status" contributed to subsequent developments in disability rights. Section 504 regulations, issued in 1977, detailed specific anti-discrimination protections—these regulations went beyond removing policy barriers to mandating affirmative conduct to remove architectural and communications barriers and provide accommodations. Many of the regulations formed the basis of the Americans with Disabilities Act (ADA), enacted in July 1990.

Section 504 applies to schools since virtually all public school systems receive federal funds. It entitles children to a public education comparable to that provided to children who do not have disabilities. The law defines disability broadly to include any person who (1) has a physical or mental impairment that substantially limits one or more major life activities, (2) has a record of such impairment, or (3) is regarded as having such an impairment. Major life activities include walking, seeing, hearing, speaking, breathing, learning, working, caring for oneself, and performing manual tasks.

Individuals with Disabilities Education Act

Background of IDEA

Although Section 504 helped establish greater access to an education among children with disabilities by removing intentional and unintentional barriers, a more proactive law protecting the educational rights of children with disabilities was passed a few years later in 1975. The Individuals with Disabilities Education Act (IDEA)—formerly called P.L. 94-142, or the Education for all Handicapped Children Act of 1975—established the right of children with disabilities to attend public schools, to receive services designed to meet their needs free of charge, and to learn in regular education classrooms alongside nondisabled children to the greatest extent possible.

These core substantive rights at the heart of IDEA are also known as a free, appropriate, public education (FAPE) in the least restrictive environment. Part B of IDEA authorizes federal grants to states to cover some of the costs of special education services. The law was significantly revised in 1997, when Congress added amendments that described how a child's individualized education program (IEP) had to be developed and reviewed, placed much greater emphasis on transitional planning for youth with disabilities, and also addressed how children and youth with disabilities could be disciplined by schools.

Unlike Section 504, IDEA does not cover all children with disabilities. Rather, the law has a two-prong eligibility standard—children must have at least one of a list of specific impairments, and they must need special education and related services by reason of such impairment(s). The specific impairments/disabilities contained in the law are

- mental retardation
- hearing impairments, including deafness
- speech or language impairments
- visual impairments, including blindness
- serious emotional disturbance (SED)
- orthopedic impairments
- autism
- traumatic brain injury
- other health impairments
- specific learning disabilities
- deaf-blindness
- multiple disabilities requiring special education and related services

Once a child is determined to be eligible for special education services, a team that includes the child's parents and representatives of the public education system develops an IEP or individualized family service plan that includes all the services and supports necessary to meet each child's unique needs.

IDEA, as well as the efforts of parents and educators and greater societal awareness about disability issues, has led to significant advances in the education of children and youth with disabilities (American Youth Policy Forum and Center for Education Policy 2002). Progress has been made, for example, in achieving the goal of access to public education for students with disabilities. There is now a more developed infrastructure in place for educating children with disabilities. Disabilities among American children are being detected and identified at much younger ages, and the overwhelming majority (approximately 96 percent) of children with disabilities attend regular schools with nondisabled children rather than schools in state institutions or separate facilities. Early intervention services for infants and toddlers have increased. And there has been significant progress in other areas, such as inclusion in regular classrooms, participation in standardized testing, rates of high school graduation and college enrollment, employment rates, numbers of special education teachers, and levels of parental involvement. All of these changes are generally viewed by experts as constituting critical improvements in the education and lives of children with disabilities and their families.

Problems with Implementing IDEA

Despite these accomplishments, it appears evident that IDEA in practice is falling far short of what legislators first envisioned. In the past two years, several major studies assessing the nation's special education system in general, and IDEA in particular, have been released (National Council on Disability 2000; Finn et al. 2001; President's Commission on Excellence in Special Education 2002; American Youth Policy Forum and Center for Education Policy 2002). These sources uniformly point to a significant disjuncture between what IDEA requires and what actually has been implemented in schools across the country. Many schools do not, for example, conduct the functional behavioral assessments (FBA) required under IDEA or, for youth who need them, develop the positive behavioral interventions and supports (PBIS) required by law.

The failure to comply with many of the mandates associated with IDEA stands of course as a policy concern itself. However, the implications of noncompliance with IDEA raise related policy concerns. For example, a recent report by the National Council on Disability (NCD; 2002b), *The Well Being of Our Nation: An Inter-Generational Vision of Effective Mental Health*

Services and Supports, documents the consequences of noncompliance for youth with mental disabilities, including greater risks of teen suicide and school dropout. Similarly, noncompliance may contribute to avoidable behaviors that result in delinquency or an increased likelihood of referral to the juvenile justice system.

Although most studies acknowledge the many significant accomplishments of IDEA, they all conclude that the system is not functioning as it should. Many of these studies identify a marked needs/services gap. They also suggest the need to move beyond "access" as an ultimate goal and to focus on improving educational quality and outcomes. Although there have been advances, special education students still lag behind their nondisabled peers in educational achievements, are held to lower expectations, are less likely to take the full academic curriculum in high school, and are more likely to drop out of school.

A major study of special education sponsored by the Public Policy Institute and the Thomas B. Fordham Foundation—which examined many different aspects of special education and involved policy analysts from many different fields—concluded recently that federal special education policy faces profound problems (Finn et al. 2001).

A recent study conducted by the National Council on Disability (2000) on federal monitoring and enforcement of IDEA found that every state was out of compliance with IDEA requirements and that in some states the lack of compliance has persisted for many years. The study reviewed 25 years of monitoring reports from the U.S. Department of Education and concluded "that federal efforts to enforce the law over several Administrations have been inconsistent, ineffective, and lacking any real teeth" (2000:5).

In their study, the American Youth Policy Forum and Center for Education Policy (2002) called for a rethinking of IDEA, one that takes account of the past history of bureaucratic and legal obstacles to successful implementation of it:

> It is time to rethink both the requirements and funding levels of IDEA. The procedural requirements of the IDEA have been instrumental in ensuring access for students with disabilities. But these requirements place considerable paperwork and time demands on teachers and administrators. And when legal conflicts between

> parents and schools become very contentious, this can overshadow educational goals and be counterproductive for children. Completing the work ahead, such as raising achievement and improving outcomes for students with disabilities, may be better accomplished with a different balance of policy approaches. (p. 5)

Most recently, the President's Commission on Excellence in Special Education was charged with "collecting information and studying issues related to federal, state, and local special education programs with the goal of recommending policies for improving the educational performance of students with disabilities" (White House 2001:1). The Commission's report found that special education is "a system in need of fundamental rethinking, a shift in priorities, and a new commitment to individual needs" (President's Commission on Excellence in Special Education 2002: 2), and then proceeded to detail specific suggestions for reform.

Competing Views of How to Improve Implementation of IDEA

Although there is some agreement that the special education system is not working as it should or could, there are differing opinions as to why this is so and what needs to be done to address current problems. Policymakers, advocates, and researchers have called for improvements in special education financing and for better accountability systems (Finn et al. 2001; American Youth Policy Forum and Center for Education Policy 2002; President's Commission on Excellence in Special Education 2002).

Funding of special education remains an important and controversial issue, especially since the costs of special education have risen dramatically. During the 1999-2000 school year, the nation spent about $50 billion on special education and related services (or about $8,080 per special education student). If one adds the costs of regular education services to these costs, then total spending on students with disabilities amounted to $77.3 billion (or $12,474 per student). This figure represents over 21 percent of all 1999-2000 elementary and secondary educational costs in the United States (Chambers et al. 2002).

Funding issues may be affecting decisions to serve, place, or refer children with disabilities, and current funding mechanisms may be creating incentives that undermine or hinder the goals of ensuring that children with disabilities receive a high-quality education. Calls for fundamental

reforms of the special education system have been sharply criticized by families of children with disabilities, disability rights groups, and other advocates and supporters of IDEA (Consortium for Citizens with Disabilities 2002). They believe that special education is well-conceived and properly structured, but has been poorly implemented and enforced. Many observers also feel that successful implementation of IDEA requires that the Federal Government "fully fund" IDEA. Full funding of IDEA is the level of funding referred to in the original 1975 legislation—40 percent of the costs associated with serving children with disabilities over and above the costs of a regular public education (educating a special education student costs $12,474 per pupil, about twice as much as a regular education student). The reality is that federal funding of IDEA has never approached 40 percent and is now at about 10.2 percent, or 12 percent if one includes special education-related expenditures that schools recover through Medicaid (Chambers et al. 2002).

Some advocates argue that funding is not the real issue. Rather, they suggest, the critical issue is a lack of commitment to children with disabilities and their families (Martin 2001). Advocates emphasize that IDEA is first and foremost civil rights legislation, and thus that it must be enforced irrespective of funding. From this perspective, "full funding" is a political slogan created by state education agencies and school district boards as an excuse not to comply with the rights of students with disabilities and as a way of diverting parental advocacy efforts away from compliance and towards fund raising for schools (Martin 2001).

It remains unclear, based on the existing empirical evidence, what the effects would be of enhanced efforts to enforce IDEA or to supply additional federal funding. When every state is found to be out of compliance with a program that has been in place for 25 years, a legitimate question arises as to whether IDEA, in its current form, is enforceable or whether it has the political support necessary to provide adequate enforcement.

IDEA constitutes a blend of civil rights law and state grant programs, a duality that has had important implications for how the law has been perceived, implemented, and enforced. Part B of the law, "Assistance for Education of All Children with Disabilities," outlines how the Federal

Government will provide grants to states to assist them in making available a FAPE and carry out other purposes of the Act.

The dual nature and purpose of the law has contributed to the creation of different stakeholders, with differing goals, at the grassroots level. The major stakeholders of civil rights laws tend to be the individuals who are protected by the law—in this case, children and youth with disabilities and their families and supporters. The major stakeholders of grant programs are the recipients of those grants, such as state and local educational agencies, school boards, their staffs, and other professionals who are supported financially by the grants. Sometimes the perspectives and interests of these two groups are the same, while at other times they are not.

This dual nature appears to have affected how the law is overseen, administered, and enforced at the federal level. The Federal Government is both a partner with state educational agencies in administering the Part B grants program and an enforcer of IDEA as a civil rights law, roles which are not always complementary (National Council on Disability 2000).

Any successful special education policy will likely require the resolution of the many issues—legal, political, and moral (Kelman 2001)—arising from the dual civil rights and federal grants program nature of IDEA. These issues are even more pronounced when one considers implementation of IDEA in the juvenile justice system, which has its own tensions (e.g., balancing rehabilitation and punishment) and is even more ill-equipped than many schools to address the needs of youth with disabilities.

Title II of the Americans with Disabilities Act

In addition to IDEA, the ADA provides individuals with disabilities protections similar to those provided on the basis of race, color, sex, national origin, age, and religion. The law guarantees equal opportunity for individuals with disabilities in public accommodations, employment, transportation, state and local government services, and telecommunications. To be covered by the ADA, one must have a disability or have a relationship or association with an individual with a disability. Like Section 504, the ADA defines an individual with a disability as someone who

has a physical or mental impairment that substantially limits a major life activity, someone who has a history or record of such an impairment, or someone who is perceived by others as having such an impairment. The ADA does not provide a list of specific impairments it covers.

Title II of the ADA includes all activities of state and local governments regardless of the size of the government entity or whether or not it receives federal funding. (Section 504 of the Rehabilitation Act is limited to recipients of federal funding.) Title II requires that state and local governments give people with disabilities an equal opportunity to benefit from all of their programs, services, and activities, including public education.

Civil Rights of Institutionalized Persons Act

Another piece of legislation that has been used to protect the rights of children and youth with disabilities is the Civil Rights of Institutionalized Persons Act (CRIPA) (42 U.S.C. § 1997). Enacted in 1980, this law authorizes the U.S. Attorney General to investigate conditions of confinement in state or locally operated jails, prisons, pretrial detention centers, juvenile correctional facilities, institutions for people with psychiatric or developmental disabilities, and publicly operated nursing homes. The purpose of the law is to allow the Attorney General to uncover and correct widespread deficiencies that seriously jeopardize the health and safety of residents of institutions. The Attorney General cannot investigate isolated incidents or represent individual institutionalized persons under CRIPA. Nor does CRIPA create any new substantive rights. It simply confers power on the Civil Rights Division of the Department of Justice to take legal action against state or local governments for failing to meet previously established constitutional or statutory rights of people institutionalized in publicly operated facilities (Puritz and Scali 1998). For incarcerated juveniles, these actions have relied primarily on three sources of federal rights: the Constitution, ADA, and IDEA (Rosenbaum 1999).

CRIPA appears to have been an underused enforcement tool, one that has been little discussed in policy and law literatures: By mid-1999, the Department of Justice had investigated fewer than 100 juvenile detention and corrections facilities in 16 states and territories (Rosenbaum 1999). However, many others have been initiated more recently under the Bush Administration (Leone

2002). To initiate an investigation under CRIPA, the Civil Rights Division must often rely on information it receives from other agencies, including other divisions within the Department of Justice, the federal Departments of Education and Health and Human Services, the Civil Rights Commission, and external sources, including parents and advocates.

Trends in Disability Law Affecting Children and Youth with Disabilities Who Are at Risk of Entering or Already Are Involved in the Juvenile Justice System

Disability law can have significant impacts on children who are at risk of becoming involved in or are already in the juvenile justice system. Without sound disability policies—especially those governing the education of children with disabilities—many children may be referred to juvenile courts, perhaps unnecessarily. For example, when children's disabilities go undetected or are poorly managed, they may experience school failure or be subject to disciplinary procedures that ultimately lead them into the juvenile justice system. This may be especially true of children with learning disabilities or behavioral/emotional disorders. Disability law and programs may also have the unintended effect of creating incentives for pushing children "downstream" out of regular schools and into the juvenile justice system. Examples of these include fiscal pressures embedded within IDEA, high-stakes testing and accountability standards, and zero tolerance disciplinary policies within schools.

The 1997 Amendments to IDEA included several provisions specifically addressing the discipline of children with disabilities. Some of the provisions incorporated into law various existing court decisions and federal policies. For example, under the new law:

> (1) schools could remove a child for up to ten school days at a time for any violation of school rules as long as there was not a pattern of removals; (2) a child with a disability could not be long-term suspended or expelled from school for behavior that was a manifestation of his or her disability; and (3) services must continue for children with disabilities who are suspended or expelled from school. (U.S. Department of Education 1999:1)

Other amendments required schools to assess a child's problem behavior and consider positive behavioral interventions to address the behavior. They also required schools to determine if the

behavior was a manifestation of the child's disability. Many of these policies were designed to protect children with disabilities while ensuring reasonable standards of conduct in schools. Despite concerns about the misuse of discipline policies, a study by the U.S. Government Accounting Office (2001), one of the few conducted on this issue, found that "special education students who are involved in serious misconduct are being disciplined in generally a similar manner to regular education students" (p. 8) and that "IDEA plays a limited role in affecting schools' ability to properly discipline students" (p. 9).

Disability law is also relevant for children involved in the juvenile justice system because they are entitled by law to have their disability-related needs met. Congress has stated that the rights and protections secured by IDEA do not end when children are detained or incarcerated. Alternative education programs, detention and correction facilities, and other juvenile justice programs are all legally mandated to provide IEPs to youth who need them.

There is, however, little evidence to suggest that the juvenile justice system is complying with IDEA or that it can comply with IDEA. The challenges associated with implementing IDEA may be even greater in juvenile justice settings, including detention, probation, parole, and local residential treatment facilities than they are in regular educational settings. In addition, successfully implementing IDEA within a long-term juvenile corrections facility requires a sound infrastructure of basic regular educational services, but this infrastructure frequently is lacking (Leone 2002).

None of the major studies examining IDEA have focused on children with disabilities who may enter or are already involved in the juvenile justice system. However, the President's Commission on Excellence in Special Education (2002) acknowledged concern about these children. It encouraged

> state agencies with authority over the direction and expenditure of federal and state funds under IDEA and the No Child Left Behind Act to develop interagency agreements with juvenile corrections agencies, foster care, and other relevant authorities to ensure continued alternative educational services (including the full continuum of services as provided under IDEA). (p. 39)

> The Commission further noted that "leaving no child behind" also means leaving no children with disabilities behind, including students at high risk of academic difficulties because of emotional disturbance and those children with disabilities in foster care or juvenile justice facilities, from the early elementary grades through high school. We must raise the bar for these children with disabilities to reach their potential. Making least restrictive environment a focus on results-based services will move services for children with disabilities in the most integrated setting possible. (p. 42)

Improving the lives of children with disabilities who are involved in the juvenile justice system need not depend on IDEA alone. In addition to the increased use of CRIPA, it appears that the ADA may also become a tool in improving educational opportunities for incarcerated youth. For example, a class action lawsuit recently was filed against the California Youth Authority (the nation's largest youth offender system) charging that its conditions were inhumane, unconstitutional, and in violation of the ADA. Among the allegations raised in the suit are that mental health care is virtually nonexistent and inmates with disabilities do not receive appropriate accommodations, including special education (Hatfield and Delgado 2002). Many young inmates have significant disabilities ranging from dyslexia to deafness to schizophrenia. In some instances, their needs are not being met, and in still others the youth reportedly are harmed by the conditions of confinement (Hatfield and Delgado 2002).

4.2 Juvenile Justice

Origins of Juvenile Justice

The first U.S. juvenile court was established in 1899 in Illinois. By 1904, 11 states established juvenile courts; by 1927, all but two states (Maine and Wyoming) had them; and by 1950, every state had enacted legislation creating juvenile courts These courts differed from criminal courts in emphasizing rehabilitation and providing for the "best interests" of youth who violated the law. This emphasis derived from English common law, which viewed children as less culpable than adults and as less developed morally and emotionally. Unlike criminal courts, juvenile court authority flowed from civil law, providing it with jurisdiction over cases involving criminal and noncriminal behavior.

The founders of the juvenile court employed the philosophy of *parens patriae* (Latin for "the state as parent") to guide and justify a new approach to managing youth who violated the law. Under *parens patriae*, government had a responsibility to act on the behalf of neglected, abused, or misbehaving children whose parents were not present or could not control or provide for them. The same philosophy had been employed by England's Chancery Courts to manage the property left to orphans of wealthy families (Polier 1989) and by 19th century American courts to place unruly youth in "houses of refuge" (Bernard 1992).

Several factors led to the creation of these new courts. One was that youth were believed to be morally and emotionally less developed than adults, and therefore required a different type of intervention. Another was a dissatisfaction among the public and court practitioners with the outcomes of cases in which young offenders were processed in conventional adult courts. Immature or especially youthful offenders might be viewed sympathetically by judges or jurors, leading to dismissals or acquittals. At the same time, turn-of-the-century social science increasingly suggested that methods existed for "correcting" various social problems, including crime (Platt 1977; Schlossman 1977; Feld 1999).

The informal, rehabilitative focus of juvenile court proceedings emphasized case-by-case individualized decisions in the "best interests" of youth, or that was the hope. Over time, however, concern arose about procedural deficiencies stemming from this informal decisionmaking approach. Observers emphasized how this informality could lead to abuses, such as secure confinement of youth who committed nonserious offenses (Empey et al. 1999). Others noted that the practice of juvenile court operations rarely reflected the ideals set by the court's founders (Feld 1999).

By the 1960s, these concerns contributed to a series of Supreme Court decisions with far-reaching impacts on juvenile courts. Collectively, these decisions resulted in the constitutional "domestication" of the juvenile court. Observing that juveniles were subject to the worst abuses of the criminal court system with none of its protections, the Court rejected the *parens patriae* philosophy and in its place emphasized due process protections afforded adults. Juveniles now were subject to the higher standard of evidence enjoyed by adults ("a reasonable doubt") and had

the right to receive notice of the charges against them, to cross-examine witnesses, and to receive the assistance of defense counsel (Bernard 1992).

Not all Supreme Court justices or youth advocates praised these changes. Some, such as Justice Potter Stewart, expressed concern that the juvenile court was becoming increasingly similar to the criminal court and thus losing its justification as a separate system for processing young offenders. This concern became more pronounced in subsequent decades as the juvenile court became more like a criminal court and as new mechanisms emerged to transfer youth to the adult justice system.

Trends in Juvenile Justice

With the advent of the 100th anniversary of the first U.S. juvenile courts, many observers increasingly wondered whether a separate juvenile justice was still appropriate. They noted the similarities with the adult justice system, the abuses prevalent in the juvenile system, and the inefficiencies associated with operating two distinct systems. Others argued that juvenile justice has been fundamentally flawed in conception, combining two contradictory aims: punishment and rehabilitation (Feld 1999). Advocates of maintaining the juvenile justice system argued that despite many flaws, this system provides more and better services for youth than would be provided under a unified juvenile and criminal justice system. They also emphasize that even greater abuses of youth would occur under such a system. (See, for example, *The ANNALS*, 1999, special issue, "Will the Juvenile Court System Survive?" edited by Ira M. Schwartz.)

Although the debate continues, there remains little evidence that any states are at present ready to dismantle their juvenile justice systems. Indeed, almost all states have passed a panoply of reforms to improve juvenile justice. These reforms include "get tough" measures, such as increasing the ability of prosecutors and judges to transfer youth from juvenile to adult courts. Some states allow prosecutors to directly file certain cases in adult court depending on a youth's age and/or the type of offense committed. Others have enacted statutes that require certain cases to begin in adult court, placing the burden on defense counsel to justify transferring youth to the juvenile justice system.

These and other mechanisms of transfer affect fewer than 1 percent of all youth referred to the juvenile justice system (Snyder and Sickmund 1999). Other reforms have targeted the remaining 99 percent of youth referred to juvenile court. For example, states increasingly have passed laws allowing youth to begin their sentences in the juvenile justice system and then complete them in the adult system. They also have enacted sentencing guidelines loosely modeled after those used in the adult and federal justice systems (Mears 2002).

At the same time, states have changed juvenile justice to improve, and not necessarily toughen, their responses to young offenders. They have promoted better screening and assessment; information-sharing among law enforcement and social service agencies, schools, and the juvenile justice system; specialized courts (e.g., teen, drug, and mental health courts); comprehensive delinquency prevention and early intervention initiatives grounded in community involvement; and restorative justice programming aimed at involving victims and communities in the sanctioning process (Torbet et al. 1996; Howell 1997; Butts and Mears 2001).

It remains unclear what direction juvenile justice will head in the coming decade. Recently, the Department of Justice authorization bill (H.R. 2215), incorporating Representatives Jim Greenwood's and Bobby Scott's bill, the Juvenile Crime Control and Delinquency Prevention Act (H.R. 1900), has resulted in reauthorizing the core parts of the Juvenile Justice and Delinquency Prevention (JJDP) Act, consolidation of existing federal juvenile justice programs into a block grant program for states and local communities, and a greater focus on mental health issues (Boehner 2002). Until this legislation is implemented and assessed, its impact will remain unknown.

Unlike the early 1990s, juvenile crime has been decreasing in recent years, especially for violent offenses (Snyder 2000; Butts and Travis 2002). At the same time, states now can begin to assess the impacts of the many changes to their juvenile justice systems, including assessment of implementation, impacts, and unintended consequences (Mears 2000). These assessments might show that "get tough" and rehabilitative policies have been effective, or they may lead to concerns about existing strategies of punishing and rehabilitating youth and a corresponding

emphasis on promoting what works. Should juvenile crime trends change for the worse, these lessons might, however, be forgotten and lead to more "get tough" policies (Bernard 1992).

Juvenile Justice Processing

The juvenile justice system consists of many different components. In general, youth are referred by law enforcement agencies, schools, and families to intake units. Intake officers determine whether the youth should be counseled and released or whether further processing is required. If additional processing is warranted, a decision must be made regarding the safety of the youth to him- or herself and to others. If the risk is sufficient, the youth may be detained pending adjudication; otherwise, he or she is released. At the subsequent adjudication hearing, initiated by the prosecutor by filing a petition with the court, the youth may be "adjudicated delinquent," the equivalent of an adult conviction. In this case, a disposition hearing will be held to determine the appropriate sanction and/or treatment. The options typically include community service, counseling, probation, residential placement, boot camps, wilderness programs, and secure confinement. Otherwise, the youth is released.

Close to half of all juvenile court referrals are handled informally (Mears and Kelly 1999). That is, the prosecutor, in conjunction with a youth's defense representative, determines an appropriate course of action without recourse to adjudication proceedings. The outcomes may be similar to those arrived at through formal (court) processing. For example, a youth may be placed on probation through either informal or formal proceedings. The outcomes also may be more favorable for the youth than if formal court processing were pursued, especially if the youth lacks adequate defense representation (Empey et al. 1999). In many instances (precise estimates are unavailable), youth waive the right to counsel with their parent's consent or because judges may discourage appointment of counsel (Feld 1999).

Processing of juvenile offenders begins once they have been referred to intake. However, referrals comprise only a fraction of all crimes committed by youth, including those that become known to law enforcement agencies. The other, unknown fraction is sometimes referred to as the "dark figure of crime." This fraction varies depending on the type of offense involved. Figure

C. 44

4.2.1 (see Appendix A) illustrates this point. It shows, for example, that only 36 percent of all residential burglaries are reported to the police compared with 80 percent of aggravated assaults. These percentages vary not only across offenses, but also across jurisdictions and regions of the country.

What happens to youth who are referred to the juvenile justice system? Figure 4.2.2 depicts the processing of the close to 1.7 million delinquency cases processed in U.S. juvenile courts in 1999. In that year, 42 percent were informally processed (i.e., no petition was filed) and 58 percent were formally processed. Regardless of whether they were processed informally or formally, fewer than 1 percent ultimately were transferred to criminal court, 10 percent were placed out of the home, 40 percent were placed on probation, 31 percent were given other sanctions, and 19 percent were dismissed or released. Of every 1,000 delinquency cases processed in 1999, 581 were formally processed. Of these, 381 (66 percent) were adjudicated and 34 percent were not. In both instances, the vast majority of youth received some type of sanction. Consistent with a trend toward more formal and "get tough" responses to youth crime, the percentage of cases dismissed or released has declined, from 34 to 19 percent between 1997 and 1999.

Processing varies considerably across different age and racial/ethnic groups and by gender, as well as by offense (Snyder and Sickmund 1999). Formal processing among whites and blacks differs, for example, but these differences vary across offenses. Analysis of data provided by the National Juvenile Court Data Archive (Stahl et al. 2002) shows that in 1999, 55 percent of white youth referred for processing were handled formally, compared with 66 percent of black youth. The difference was even greater for drug offenses: 55 percent of white youth referred for a drug offense were formally processed, compared with 80 percent of black youth (Stahl et al. 2002).

Racial/ethnic differences in juvenile justice processing have emerged as a pressing policy issue nationwide (Pope and Feyerherm 1995; Feld 1999). Critics of the juvenile justice system point to the overrepresentation of African Americans and other minority groups, noting that a greater percentage of minorities are represented at all stages of processing than are represented in the general youth population. To draw attention to this issue, they point to many compelling facts

about race/ethnicity, and its intersection with gender, that collectively indicate the critical importance of race/ethnicity when discussing juvenile justice policy:

- Rates of violent victimization are higher among blacks than among whites, and the rate of violent victimization among American Indians (119 victimizations per 100,000 American Indians age 12 or older) is 2.0 times greater than among blacks, 2.5 times greater than among whites, and 4.5 times greater than among Asians (Rennison 2001).

- In 1997, non-Hispanic black juveniles were incarcerated in residential placement facilities at a considerably higher rate (1,018 per 100,000 non-Hispanic black juveniles in the general population) than Hispanics (515) and non-Hispanic whites (204) (Office of Juvenile Justice and Delinquency Prevention [OJJDP] Statistical Briefing Book. Available online at http://www.ojjdp.ncjrs.org/ojstatbb/qa162.html, September 30, 1999).

- These racial/ethnic differences are found among both males and females:

  - Non-Hispanic black male juveniles were incarcerated in residential placement facilities at a considerably higher rate (1,176 per 100,000 non-Hispanic black male juveniles in the general population) in 1997 than Hispanics (902) and non-Hispanic whites (327) (OJJDP Statistical Briefing Book. Available online at http://ojjdp.ncjrs.org/ojstatbb/html/qa336.html, July 31, 2001).

  - Non-Hispanic black female juveniles were incarcerated in residential placement facilities at a considerably higher rate (234 per 100,000 non-Hispanic black female juveniles in the general population) in 1997 than Hispanics (100) and non-Hispanic whites (75) (OJJDP Statistical Briefing Book. Available online at http://ojjdp.ncjrs.org/ojstatbb/html/qa335.html, July 31, 2001).

  - Non-Hispanic black male juveniles accounted for 55 percent of youth in residential placement for robbery in 1997 and 30 percent of youth in placement for status offenses. They also accounted for over 60 percent of placements for drug trafficking and over 50 percent of placements for drug offenses (OJJDP

Statistical Briefing Book. Available online at http://www.ojjdp.ncjrs.org/ojstatbb/qa160.html, September 30, 1999).

Such facts only begin to capture the age, sex, and racial/ethnic dimensions of juvenile justice, and how these may vary by type of offense and stage of juvenile justice processing (see, e.g., Pope and Feyerherm 1995; Snyder and Sickmund 1999). Yet they illustrate the broad-based pattern that underlies almost all statistics in this area. Namely, on the whole, racial/ethnic minorities, especially racial/ethnic minority male populations, are overrepresented in the juvenile justice system relative to their prevalence in the general population.

Although researchers have examined this issue in great detail, much remains unknown and debated. For example, some studies suggest that black youth are much more likely to be incarcerated than are white youth, while other studies find that this difference typically reflects differences in the seriousness and record of offending between the two groups (Empey et al. 1999:362). Increasingly, research indicates that minority discrimination may operate through a series of incremental steps through the stages of the juvenile justice system that collectively result in the aggregate differences observed at later stages of processing (Pope and Feyerherm 1995; Sampson and Lauritsen 1997). For example, in some jurisdictions black youth may be more likely to be detained than white youth. Detention can increase the likelihood of disposition to long-term secure confinement, and thus may operate indirectly to result in disproportionate numbers of black youth being incarcerated, even if no additional form of discrimination occurred at the point of disposition. Studies that fail to examine both stages of processing may fail to identify this potential source of overrepresentation of youth in long-term secure confinement.

Some studies observe more pronounced racial/ethnic processing in some jurisdictions than in others, and others show that disproportionately more severe treatment of minority youth occurs primarily in jurisdictions with large proportions of minorities (Empey et al. 1999). In large jurisdictions consisting primarily of minority youth, decisions to automatically sanction certain types of offenses can result in statewide aggregate differences in the processing of minority and nonminority youth (Mears and Field 2000). The statewide difference might appear to result from discrimination against black youth, when the difference in reality would reflect processing in one

jurisdiction. Decisions to process certain kinds of cases in a particular way also can differentially affect certain groups if these kinds of cases are more concentrated in those groups.

Such complexity should not obscure the importance of overrepresentation of racial/ethnic minorities as a central policy concern. As suggested by research, overrepresentation may result from overt discrimination at any one particular stage or less obvious, aggregated forms of systemwide discrimination that may reflect how particular types of cases are handled. Even if no discrimination were found at any stage of processing, including the actions of law enforcement agencies, the overrepresentation would be a concern. It might, for example, reflect a community or society-level problem in the opportunities afforded African-American youth or the ways in which these and other minority youth are treated (Feld 1999). For example, Native American Indian youth experience considerable hardship, including poverty, unemployment, poor housing and education, and medical and health problems, factors that may in turn contribute both to delinquency and to how these youth are treated before and after they enter the juvenile justice system (Campbell 2000; Sanchez-Way and Johnson 2000).

Juvenile Justice and Youth with Disabilities

Under federal law, including IDEA, youth with disabilities are entitled to special education and related services while they are under the authority of the juvenile justice system (Burrell and Warboys 2000). Considerable attention by researchers and advocates has focused on youth with disabilities in the juvenile justice system. However, much of this focus concentrates on youth incarcerated in long-term secure confinement facilities, even though the vast majority of youth in the juvenile justice system are not in these facilities. Rather, they are in short-term detention, on probation or parole, or in residential treatment facilities. Many are simply released outright, even though there may be evidence that they should be referred for services because of a potential disability that may not previously have been identified by schools. As Burrell and Warboys (2000:1) have observed: "Youth in the juvenile justice system are much more likely to have both identified and *undiscovered* disabilities" (emphasis added). Few juvenile justice systems employ rigorous screening and assessment for all youth who enter the juvenile justice system (Mears and

Kelly 1999). Even if they did, the quality, focus, and goals of the screening and assessment can vary greatly, thus reducing the chances that youth with disabilities will be independently identified.

Identification of youth with disabilities in the juvenile justice system can be relevant at almost all stages of processing:

> [Information about a youth's disability] may help to determine whether formal delinquency proceedings should proceed or suggest important directions for investigation and case strategy. Information about the disability often helps to explain behavior in a way that facilitates constructive intervention, and it is essential to arriving at a disposition that will both meet the youth's rehabilitative needs and comply with IDEA requirements. Helping youth reach their educational potential by protecting their rights under IDEA can give them the tools they need to succeed in life. In fact, many of the behavioral and educational issues addressed through the special education system closely parallel issues encompassed in the juvenile court disposition process. In ensuring that disability-related needs are identified and met, IDEA may play a significant role in reducing delinquent behavior (Burrell and Warboys 2000:1).

The different stages of processing—including intake, adjudication, disposition, incarceration, and release—all represent central areas in which federal disability law is especially relevant to the juvenile justice system. Defense counsel serve a critical role throughout these stages, helping both to traverse the adversarial process of adjudication and to advocate for evaluation and services to which youth are legally entitled (Peikin 2001). The application of disability law to juvenile justice processing is discussed in greater detail below. However, it bears emphasizing here that many laws do not make clear what stage, or part, of the juvenile justice system is responsible for carrying out a given provision of the law, including when and how youth should be screened and assessed for disabilities and related needs.

Figure 4.2.3 depicts both the stages of the juvenile justice system and the range of opportunities for intervening with youth before, during, and upon leaving the juvenile justice system. As the left-most box suggests, communities and the resources within them (e.g., health care providers, hospitals and clinics, families, and schools) are the primary agents who can influence whether a

youth with a disability is appropriately identified as having a disability and then receives services that may help prevent involvement in the justice system.

The second set of boxes describes the juvenile justice system and the various stages within it. Youth referred to the juvenile justice system first are referred to intake, where they are assessed for their risk to self and others and for any needs that should be addressed. Intake thus constitutes a critical point at which youth with disabilities can be identified, along with any special needs they may have. Although there currently are few systematic studies of intake practices, the available evidence suggests that few intake units have the capacity or training to identify youth with disabilities, interpret their behaviors correctly, or link them to needed services (Mears and Kelly 1999; Leone et al. 2002). From intake, youth may be released outright, detained, or referred for processing by the courts. In each instance, opportunities exist to intervene with youth to ensure their needs are met. Dismissed youth, for example, may be at greater risk for additional delinquency and referral to the justice system if they do not receive disability-related services. In addition, youth who are referred for processing may not receive adequate representation or advocacy if defense counsel are not aware of the youth's disabilities. Youth who are informally or formally processed may be sent to the adult justice system, placed in secure residential placement or on probation, or diverted to community-based noncustodial diversionary alternatives.

As the final box indicates, all youth released from custody will reenter communities. Many of these youth will still be of an age to be reentering schools, as well as their families. This transition may be difficult due to the sometimes extensive period of time, from several months to several years, that youth may have been incarcerated. If these youth engage in further delinquency or other anti-social behaviors, they may reenter the juvenile justice system and, because of a prior record, face a greater likelihood of formal processing and possibly incarceration.

The evidence to date suggests that relatively little is known about youth with disabilities in the juvenile justice system, especially if one looks beyond correctional facilities and focuses on youth who have been counseled and released, who have been placed on probation or in

residential treatment, or who are on parole. What, for example, are the types of disabilities among youth at each stage of processing? What procedures and programs exist to address the needs of youth with disabilities at each stage? What is the capacity of the system as a whole to address these disabilities? What is the awareness among juvenile court practitioners of disabilities and disability law? What is the extent to which schools share education-related information with juvenile court intake units? With few exceptions, the existing research is relatively silent on these and related questions. The one notable exception is research on youth in long-term secure confinement. Many studies have examined this population and continue to do so (Rutherford et al. 2002). Yet even these studies frequently suffer from data limitations that preclude accurate estimation of the prevalence of particular types of disabilities, how these disabilities affect youths' experiences of the juvenile justice system, or how the system addresses the needs of these youths.

Juvenile Justice and Federal Efforts

There currently exists an entity—the Coordinating Council on Juvenile Justice and Delinquency Prevention—responsible for coordinating federal delinquency prevention programs. The Coordinating Council, established by the JJDP Act, is composed of members from a wide range of federal agencies and acts as an independent body within the executive branch of the Federal Government (http://ojjdp.ncjrs.org/council). The JJDP Act emerged out of concern, among other things, with the incarceration of status offenders and the confinement of youth with adults. The original Act was enacted in 1975 and has since been amended and reauthorized several times. The JJDP Act focuses primarily on systems-level reforms aimed at deinstitutionalization of status offenders, separate detainment and confinement facilities for youth and adults, and examination of whether and why there may be disproportionate minority confinement among states (Bilchik 1995). The Coordinating Council is one of the more important results of the JJDP Act, especially for youth with disabilities, because its responsibilities include the coordination of federal, state, and local efforts to better serve at-risk youth.

To date, the Council has produced or supported several publications that focus on youth in federal custody, the death penalty, underage drinking, and, perhaps its most widely disseminated effort, the report, *Combating Violence and Delinquency: The National Juvenile Justice Action Plan* (1996). With respect to disability issues, the Council has created a "Children with Disabilities" Web site (www.childrenwithdisabilities.ncjrs.org), which provides links to resources and information on such topics as health, housing, and education. These efforts have advanced program and policy thinking about delinquency prevention, and the Web site specifically provides an important source of centralized links to disability topics. It remains unclear, however, what specific impacts these or other efforts undertaken by the Council have had on actual practices in addressing the needs of youth with disabilities at risk of delinquency or involvement in the juvenile justice system.

Although responsibility for coordinating federal efforts lies primarily with the Coordinating Council, the responsibility for programming that addresses youth with disabilities in or at risk of entering the juvenile justice system lies primarily with the Office of Juvenile Justice and Delinquency Prevention (OJJDP). Under the JJDP Act, OJJDP is mandated

> to develop and implement, in coordination with the Secretary of Education, model programs and methods to keep students in elementary and secondary schools, to assist in identifying learning difficulties (including learning disabilities), to prevent unwarranted and arbitrary suspensions and expulsions, and to encourage new approaches and techniques with respect to the prevention of school violence and vandalism. (Juvenile Justice and Delinquency Prevention Act, Subchapter II, Programs and Offices, Part C, National Programs, Subpart II, Special Emphasis Prevention and Treatment Programs, 42 U.S.C. 5665, Sec. 261)

To this end, OJJDP has spearheaded many initiatives focused on delinquency prevention in general, including school-based efforts. It also recently published a report, *Special Education and the Juvenile Justice System* (Burrell and Warboys 2000), discussing IDEA and issues related to the treatment of youth with disabilities in the juvenile justice system, and a related report, *Guidelines for the Screening of Persons Working with Children, the Elderly, and Individuals with Disabilities in Need of Support* (Davis et al. 1998). OJJDP also has worked with the Coordinating Council to support the "Children with Disabilities" Web site.

In collaboration with the U.S. Department of Education's Office of Special Education Programs, OJJDP has funded the National Center on Education, Disability and Juvenile Justice (EDJJ). EDJJ provides a centralized and Web-based source of information about youth with disabilities at risk of entering or already in the juvenile justice system, their educational needs, and effective responses to addressing these needs (http://www.edjj.org). EDJJ staff conduct or support research, provide training and technical assistance, and arrange meetings.

These types of efforts highlight the importance that OJJDP, as well as the Department of Education (DOE), has placed on addressing the needs of youth with disabilities. At the same time, it is evident that no centralized, well-coordinated system of research or programming has emerged from either the Coordinating Council, OJJDP, or DOE focusing on this population. (A review of the discretionary spending initiatives available through IDEA in fiscal year 2001 for research and technical assistance suggests that the Department of Education's support of EDJJ is one of the only DOE efforts targeting children and youth at risk of entering or already involved in the juvenile justice system [U.S. Department of Education 2002].) There also is little evidence that their efforts have resulted in demonstrable impacts on practices in schools or the juvenile justice system (Osher et al. 2002). Indeed, many sources, including recent reports by the National Council on Disability (2000, 2002b), suggest a continuing national failure to fully and effectively implement federal disability law.

Consequently, some sources (e.g., Cagungun 2000), as well as individuals interviewed for this report (see Appendix A), have called for better coordinated and funded national efforts. They suggest, for example, the creation of a national commission that might bring a greater and more sustained focus to research on and programming for youth with disabilities in or at risk of entering the juvenile justice system. Recently, the President of the United States issued a memorandum calling for the development of a Task Force to develop a comprehensive federal response to the "problems of youth failure" and, to this end, to coordinate interagency efforts, develop a unified research plan, promote youth development practices, and assess federal efforts targeting disadvantaged youth (Bush 2002). This Task Force might eventually promote the types of better coordinated and funded national efforts recommended by NCD and others.

As the subsequent chapters demonstrate, the lack of sustained attention to this population of youth stands as one of the most obvious barriers to developing more effective programs and policies. There are many opportunities—discussed below and in the figures and tables in Appendix A—for improving both research and practice. For example, improved screening and assessment in schools and the juvenile justice system, as well as cooperation and coordination among schools and the juvenile justice system, might contribute to greater and improved implementation of IDEA in both settings. However, the existence of such opportunities by themselves is insufficient to result in a change in the levels and quality of programming and enforcement of juvenile justice and disability law. For that, a well-funded and coordinated federal research and implementation initiative, or the functional equivalent at the state level, likely will be necessary.

5. Disability, Delinquency, and Juvenile Justice

This chapter examines possible relationships between disability, delinquency, and juvenile justice. It first highlights several critical issues involved in defining, conceptualizing, and measuring disability and delinquency. This discussion establishes a foundation for appreciating the limitations of current estimates of the prevalence of youth with disabilities in society, schools, and the juvenile justice system. The chapter then discusses whether a "link" between disability and delinquency exists, and what may account for the apparent overrepresentation of youth with disabilities in juvenile correctional settings. This discussion is followed by a review of some basic facts about overrepresentation. Despite considerable attention to this issue, few local, state, federal, or tribal jurisdictions maintain consistent and comprehensive databases documenting how many youth with disabilities are processed throughout the juvenile justice system. The chapter concludes by discussing briefly the role of schools as potential conduits for transferring youth with disabilities into the juvenile justice system, and reviewing some of the critical trends identified by the interview respondents.

5.1 Definitional, Conceptual, and Measurement Issues

Accurate estimates of the depth and breadth of the disability and delinquency problem are rare. A major reason for this is that defining and measuring disability among children is inherently difficult. As with adults, no single universally accepted definition of disability exists for children and youth. However, there are several dimensions along which disabilities typically are defined or described.

Disability typically refers to how physical or mental limitations are manifested within a specific social or environmental context. Thus, a disability can be thought of as the outcome of an interaction between impairments, or functional limitations, and behavioral/performance expectations of socially defined roles. An individual who is impaired/limited in his or her ability in one environment may not be limited when elements of that environment are changed.

In practice, estimates of the prevalence of disabilities among children have relied on two very different types of information and approaches. The most common approach has been to use data on the prevalence of disabling chronic conditions. The National Health Interview Survey, for example, uses this approach. Although it is useful if one is interested in specific disabling conditions (e.g., autism or cerebral palsy), using chronic conditions to measure the prevalence of disabilities requires that one decide what conditions should be included. How this determination is or should be made is not always clear. Also, because not all chronic conditions are disabling, this approach also requires specifying what the criteria are for condition duration and severity.

Disability prevalence measures are sensitive to these decisions and can vary dramatically even when using a single data source. Another disadvantage of using a condition-specific approach is that children are by nature moving targets developmentally. The presence of any single chronic or disabling condition may have different effects on the child's functional abilities/disabilities as the child ages or even from one child to another (Aron et al. 1996). Additional conceptual challenges arise when a child has two or more disabling conditions, the cumulative effects of which may far exceed the simple sum of the effects of the individual conditions (Office of Special Education Programs 2000).

An alternative to this condition-specific, or categorical, approach is what is known as a noncategorical, or functional, approach. This method involves assessing, without regard to specific condition, children's functioning in areas such as cognition, communication, motor abilities, social abilities, and patterns of interaction. (When the U.S. Supreme Court decided in 1990 in *Sullivan v. Zebley* that the Social Security Administration [SSA] must make its eligibility determination process for children comparable to that for adults, it essentially required that SSA shift its eligibility determination process from a condition-specific approach to a functional one.) This approach is more consistent with the broader definition of disability described earlier. It also accords with a recent review's recommendation that schools, and by extension the juvenile justice system, transcend the problems associated with the inconsistent use and measurement of categories. One strategy, for example, is to emphasize that with all categories (e.g., specific

learning disability, emotional disturbance, mental retardation) there may be a generalized academic deficit that itself constitutes a disability (Rutherford et al. 2002).

The challenges associated with defining and therefore measuring disability become immediately evident when one looks beyond the research literature on disabilities. Social service and health agencies, professional organizations, and even legislative acts employ different terms, definitions, and criteria for defining, diagnosing, and classifying disabilities among children (Murphy 1986; Aron et al. 1996; U.S. Department of Education 2001). Across agencies and schools there can be additional variation. In special education, for example, a child with the same underlying condition can be assigned a diagnosis of behaviorally-emotionally handicapped, severely emotionally disturbed, or behaviorally disordered. A mental health professional might diagnose the same child as having a mood or conduct disorder. Professional organizations such as the American Association on Mental Retardation, the Autism Society of America, and the Learning Disabilities Association of America frequently employ definitions and diagnostic criteria that differ from those used in special education and rehabilitative settings.

Legal definitions can also vary over time. The definition of and assessment procedures for diagnosing conduct disorders, for example, have changed during the past two decades, and currently few reliable instruments exist for making this diagnosis (Mrazek and Haggerty 1994). As Aron et al. (1996) have noted, this diversity in diagnostic definitions, classifications, and ways of determining eligibility has serious implications:

> In practice, no single definitional or classification system has been used by service providers or others in the childhood disability community. Differences in the way children with disabilities are diagnosed and classified remain a continuing problem that affects choices in medical, educational, social, and rehabilitative services. These differences complicate decisions about eligibility, transitioning across programs, program funding, and documentation of program impact. For researchers and policymakers, it also adds to the difficulty of comparing studies and systematically analyzing different policies. This variability reflects conceptual, semantic, and measurement issues. (p. 13)

Defining and measuring disabilities among youth who are delinquent (or at risk of delinquency) can be even more challenging. Within the juvenile justice system, estimates are problematic

because few states systematically screen and assess youth who enter the juvenile justice system (Towberman 1992). This issue is critical given that the vast majority of youth referred to juvenile courts will have their cases dismissed or receive probation; only a small fraction will eventually be incarcerated (Mears and Kelly 1999). Most studies of youth with disabilities focus primarily on youth in correctional settings and thus cannot generalize to youth throughout the juvenile justice system. Moreover, their generalizability to all youth engaged in delinquency is suspect because incarcerated youth represent a select population of all delinquents, typically the most serious or chronic offenders. Unfortunately, national studies of general population youth typically do not systematically examine disabilities and delinquency within the same study. We therefore lack a direct assessment of the relative prevalence of disabilities among delinquents, or of delinquency among youth with disabilities. An additional complication lies in the fact that researchers frequently do not use similar age groupings. Also, the legal definition of "child" and "juvenile" varies considerably across states (Feld 1999), and researchers may use different age groupings depending on their theoretical perspective or restrictions imposed by the data they are using (Aron et al. 1996).

Even if one understands that incarcerated youth are not representative of all youth involved in the juvenile justice system, there are other reasons for interpreting studies of disabilities among incarcerated youth with caution. The incarcerated youth population is constantly experiencing turnover, with many youth staying for relatively short periods of time and a smaller share staying for longer periods of time. Data that rely on a snapshot of the characteristics of incarcerated youth at a single point in time will overrepresent the characteristics of the long-term stayers and underrepresent the characteristics of the short-term stayers. Thus, if youth with certain types of disabilities are likely to be incarcerated for longer periods, studies relying on point-in-time data will overstate the prevalence of these disabilities among incarcerated youth. An additional problem lies in the fact that some disabilities may be given more attention than others, leading to few assessments of the prevalence of other disabilities. For example, Burrell and Warboys (2000:2) have observed that the "two most common disabilities found in the juvenile justice system are specific learning disability and emotional disturbance." Yet few studies systematically

focus on other disabilities, such as those linked to health; speech, language, or visual impairments; or mental retardation.

Finally, studies examining changes over time in the prevalence of youth with disabilities in the juvenile justice system must take into account increases in the estimated prevalence of disabilities among all children and adolescents. Any identified increases in these different prevalence rates may be due, for example, to factors such as improvements in data collection and assessment; increased survivorship of low-birthweight babies and children with certain chronic conditions (due to advances in medical technology); improved responsiveness to programs that assist individuals identified as having a disability; and greater awareness and detection by parents, educators, and health care and other youth-serving professionals (Aron et al. 1996).

5.2 Possible Relationships: Theories and Research

Background

During the past century, considerable research has focused on the relationship between disability and delinquency (Murphy 1986). Initial interest among researchers and practitioners arose out of the observation that many youth in the juvenile and criminal justice systems experienced emotional and psychological issues that in more recent years would be viewed as a subset of conditions comprising a disability. As researchers and policymakers have become more sophisticated in their understanding of both disability and delinquency, additional areas of inquiry have emerged. Studies have begun to focus on a range of disabilities, such as speech and hearing disorders, learning disabilities, and mental disabilities.

Researchers have hypothesized different mechanisms through which youth with disabilities may be disproportionately involved in the juvenile justice system. Federal and state legislation increasingly has focused on the issue of disabilities among youth in the juvenile justice system (Burrell and Warboys 2000). This focus has contributed to more refined assessments of the prevalence of youth with disabilities in correctional settings. But few studies systematically address the disability-delinquency link using data that could provide a definitive assessment of

whether, for example, disabilities cause delinquency. For example, few employ random samples of youth populations or a range of disabilities and types of delinquency (Malmgren et al. 1999). Typically, existing research has focused on mental disorders, intelligence, speech, hearing, and physical disorders, with the bulk of it focusing on learning disabilities. Rarely are self-reported data or longitudinal designs employed, approaches that would provide a better research foundation for specifying the relationship between disability and delinquency and how some youth with disabilities enter the juvenile justice system. Finally, few studies have been designed to disentangle the precise mechanisms through which youth with disabilities enter the juvenile justice system (Brier 1989; Eggleston 1996). That is, what factors, apart from delinquency, affect how youth with disabilities are referred to and processed by the juvenile justice system, including sanctions to long-term custody.

To date, much of the existing research on a possible relationship between the presence of a disability and the status of delinquency comes from psychologists, education specialists, and social workers. Notwithstanding the prevalence of youth with disabilities in the juvenile justice and/or the correctional systems, criminologists as a whole have not examined the possible relationship in much detail. Evidence of this absence of examination is reflected not only in the lack of published research in leading criminology journals but also in a recent review of juvenile and criminal justice introductory textbooks. The ongoing study, conducted by the National Center on Education, Disability and Juvenile Justice (www.edjj.org/cjbook.html), examined 14 textbooks published by six companies. The preliminary results indicated that almost none of the textbooks devoted much if any attention to disability issues, possible relationships between the presence of disabilities and the status of delinquency, or how the presence of a disability may affect how youth are referred to and processed by the juvenile justice system.

Research on crime and delinquency, conducted primarily by criminologists and public health researchers, increasingly has drawn attention to the importance of focusing on youth developmental issues and understanding the risk and protective factors associated with delinquency (Loeber and Farrington 2001). The result has been an emerging awareness that there are general risk factors associated with an increased likelihood of offending and protective

factors that may help buffer youth from criminal involvement. However, this research in general has not explicitly focused on youth with disabilities and their involvement in delinquency and the juvenile justice system. (See the discussion in the following section.)

Theories

Three commonly cited theories predict a link between learning disabilities and delinquency. The first, susceptibility theory, holds that youth with disabilities are more likely to engage in delinquency because of particular characteristics putatively associated with disability (e.g., impulsivity, suggestibility). The second, school failure theory, posits that a youth's disability may contribute to difficulties, frustration, and failure in school, which in turn leads to criminal behavior. And the third, differential processing theory, suggests that youth with learning disabilities are no more likely than youth without disabilities to engage in delinquency, but that that they are more likely to be arrested/referred, convicted, and formally processed (Brier 1989; Eggleston 1996; U.S. Department of Education 2001).

Further specification of this last theory suggests three types of differential processing: (a) differential arrest or referral (youth with disabilities may be less likely to conceal their criminal activities); (b) differential conviction (youth with disabilities may be less able to cope with processing and therefore are more likely to be adjudicated); and (c) differential disposition (youth with disabilities may be more likely to receive harsher dispositions). To the extent that these types of differential processing occur, a reinforcing cycle may result, due in part to the likelihood that, for example, youth with disabilities on probation or released to parole may be more closely supervised. The closer supervision may result in a greater likelihood that violations or delinquent acts will be identified, resulting in referral to the juvenile justice system. Now, however, the youth has a prior record that may result in a more severe disposition.

Few rigorous tests of these theories have been conducted. Existing tests have yielded mixed results, with some suggesting support for each theory and others suggesting little to no support for each. Most reviews of research identify little consistent evidence supporting any of the theories, though on the whole greater support appears to exist for differential processing theory

(Keilitz and Dunivant 1986; Larson 1988; Brier 1989; Waldie and Spreen 1993; Cramer and Ellis 1996; Crawford 1996; Malmgren et al. 1999; National Center on Education, Disability and Juvenile Justice 2001; U.S. Department of Education 2001). Much of this research suffers from a reliance on inadequate and inconsistent definitions of both disability and delinquency. It also rarely links, through a prospective research design, childhood disability-related conditions with behaviors in adolescence (e.g., delinquency).

One of the primary methodological problems with tests of these theories is that they employ data from incarcerated populations and presuppose a causal relationship between learning disabilities and delinquency (Waldie and Spreen 1993; Malmgren et al. 1999). As a result, the explanations often proceed using data of questionable relevance or appropriateness for ascertaining whether such a relationship in fact exists. It is true that many youth in correctional settings have disabilities and that the proportion of youth with disabilities in correctional settings is greater than for youth in the general population (U.S. Department of Education 2001). However, as with explanations of delinquency that focus on race/ethnicity, the explanation for such patterns could lie more with the impacts of differential processing of certain groups than with actual differences in propensities to commit crime (Pope and Feyerherm 1995).

To date, insufficient research has been conducted to determine what leads to the disproportionate confinement of youth in correctional settings. As noted, research provides little foundation for assessing which of the three theories for a relationship between the presence of a disability and the status of delinquency—susceptibility, school failure, or differential processing—has the most explanatory power. Some researchers suggest that a multicausal explanation is needed, one that may encompass aspects of each of these theories as well as other potentially applicable theories (Brier 1989). Such explanations have not as yet been fully developed or tested. Moreover, most of the explanations developed so far have not drawn on criminological theory or research. There is, therefore, considerable room for developing more nuanced theories that could account for why youth with disabilities might be more likely to engage in delinquency or how disabilities might contribute to an increased likelihood of arrest/referral, adjudication (conviction), and disposition to more severe sanctions than youth without disabilities.

5.3 Prevalence of Youth with Disabilities in the Juvenile Justice System

Most research does not systematically examine the prevalence of youth with disabilities throughout various stages of the juvenile justice system. It instead focuses on the prevalence of disabilities among incarcerated youth. These studies typically suggest that approximately 10 percent of general population youth have a special education disability, compared with between 30 and 50 percent of incarcerated youth (Murphy 1986; Brier 1989; Winters 1997; Robinson and Rapport 1999; National Center on Education, Disability and Juvenile Justice 2001; U.S. Department of Education 2001; National Council on Disability 2002b; Rutherford et al. 2002). Prevalence estimates vary considerably because of differences in how disability is defined and measured, poor screening and assessment processes both in schools and in the juvenile justice system, and inconsistent to nominal transfer of school records to juvenile court and correctional facilities (Rutherford et al. 2002:7).

Precise estimates for specific disabilities vary for similar reasons. Some estimates suggest, for example, that 10 percent of youth in correctional facilities have specific learning disabilities (SLD), while others suggest that the percentage is closer to 36 percent (Rutherford et al. 2002). Estimates of the prevalence of emotional disturbance (ED) range upwards of 50 percent; for SED, estimates run as high as 20 percent (Rutherford et al. 2002). Up to 12 percent of incarcerated youth are labeled with mental retardation (Rutherford et al. 2002). Research suggests that attention deficit hyperactivity disorder (ADHD) is four to five times more prevalent in correctional facilities than in schools. Between 20 and 50 percent of incarcerated youth are estimated to have ADHD (Rutherford et al. 2002). Research suggests that learning disability and emotional disturbance are the most common types of disabilities among youth in correctional settings (Burrell and Warboys 2000; U.S. Department of Education 2001:II-2).

The prevalence of learning and emotional disturbance disabilities among incarcerated youth appears to have increased more than the prevalence for other disabilities has. Between 1993 and 1997, for example, the number of youth with disabilities of any kind in correctional facilities rose

from roughly 12,500 to 16,000, an increase of 28 percent (U.S. Department of Education 2001:II-5). Whether the increase was due to an actual increase in admissions of youth with disabilities or to better assessment of youth with these types of disabilities remains unknown (U.S. Department of Education 2001:II-5).

Few national, state, or even local studies provide representative estimates of the prevalence of disabilities among children and youth at risk of engaging in delinquency or among those already in the juvenile justice system. One exception, focusing on learning disabilities, involved a study conducted by the National Center on State Courts. This study relied on large, representative samples. It indicated that "36 percent of incarcerated juveniles were found to have a learning disability, and youngsters with learning disabilities were found to be more than twice as likely to commit a delinquent offense than their non-learning-disabled counterparts" (Brier 1989:546). Unfortunately, the study did not systematically examine a full range of disabilities because of the paucity of existing disability subgroup statistics in juvenile justice data systems. Like most previous studies, it lacked a temporal dimension, providing little leverage for identifying trends over time in incarcerated youth with disabilities.

In short, although many studies have examined incarcerated populations, they typically suffer from a range of methodological flaws. As a result, their generalizability is limited. However, many jurisdictions increasingly are moving in the direction of more systematic screening and assessment of youth who enter the juvenile justice system. For example, Florida and several other states have begun using Juvenile Assessment Centers (JACs) that provide for well-coordinated screening and assessment, and collaboration with child welfare and other social service agencies (Mears and Kelly 1999). As these and other jurisdictions move forward with these endeavors, better and more accurate information on disabilities among youth in the juvenile justice system may become available. At the same time, researchers increasingly are conducting studies that may help illuminate more precisely the prevalence of disabilities among delinquents and youth throughout the juvenile justice system, and, conversely, the prevalence of delinquency among youth with disabilities (National Center on Education, Disability and Juvenile Justice 2001; U.S. Department of Education 2001).

5.4 Schools as Conduits to the Juvenile Justice System

In addition to changes in juvenile justice (e.g., new laws making it easier to try juveniles as adults), a growing body of largely anecdotal evidence suggests that school policies and practices may be contributing to an unnecessary and inappropriate flow of children and youth with disabilities, especially minority children, into the juvenile justice system. Researchers have identified a variety of school-based factors that may contribute to this trend: "zero tolerance" discipline policies, enhanced security procedures and student surveillance (through the use of cameras, metal detectors, police patrols, and random searches), and greater information-sharing with law enforcement.

Although many of these factors represent strategies to maintain "safe learning environments," critics argue that they disproportionately target minority students, do not reduce violence or disruption, and criminalize misbehaviors that could be handled by schools alone. Findings from "school climate research" suggest that other school-based practices and conditions may also be contributing to academic failure and increased referrals to juvenile justice systems. This research points to a greater emphasis on test performance, ability grouping or tracking, and grade retention; growing racial segregation within public schools; an inability among schools with large minority populations to retain qualified teachers or provide adequate counseling services; and the disproportionate labeling, restrictive placement, and low quality of support services among minority children within the special education system (McEvoy and Welker 2000). Also, school climate may negatively affect problem-solving practices such as functional behavioral assessments and positive behavioral interventions and supports.

To date there has been little rigorous empirical research documenting the exact nature or extent of these problems or how to resolve them, but new studies are being sponsored (e.g., by the Civil Rights Project at Harvard University and Northeastern University's Institute on Race and Justice). This work may not only lead to improvements in educational policies, but it may also shed light on how schools can collaborate with community and public agencies to implement effective intervention and prevention strategies.

6. Risk and Protective Factors Associated with Delinquency

This chapter discusses risk and protective factors associated with delinquency. It also reviews the extent to which research exists that identifies unique risk and protective factors associated with delinquency among children and youth with disabilities, and examines the overlap between factors associated with delinquency and those associated with disability.

Increasingly, researchers have come to emphasize universal, selective, and indicated prevention measures that focus on malleable (i.e., changeable) factors as targets of programs and policies that focus on various health or behavioral outcomes (Mrazek and Haggerty 1994; U.S. Department of Health and Human Services 2001). Briefly, (a) universal preventive measures refer to measures that are "desirable for everybody in the population," (b) selective preventive measures refer to measures that are "desirable only when an individual is a member of a subgroup of the population whose risk of becoming ill is above average," and (c) indicated preventive measures refer to measures that are desirable for "persons who, on examination, are found to manifest a risk factor, condition, or abnormality that identifies them, individually, as being at high risk for the future development of a disease" (Mrazek and Haggerty 1994:20-21). Note that only the last measure targets specific individuals whereas the previous two target the general population or a subgroup of the general population. Any of these types of interventions may focus on risk markers (i.e., unmalleable characteristics, such as age or race/ethnicity, that may put a person at risk, or serve as a marker of risk, for some outcome), or they may focus on malleable risk factors that can be changed (e.g., attitudes, behaviors).

There have been calls for researchers to employ this type of terminology to promote greater consistency in research and thus an ability to compare research findings (Mrazek and Haggerty 1994). Nonetheless, there continues to be considerable inconsistency in how these and related terms, such as risk and protective factors, are used in the delinquency, disability, and broader health literatures (Mrazek and Haggerty 1994; Loeber and Farrington 2001; U.S. Department of Health and Human Services 2001). For this reason, the review below does not impose the

suggested framework because to do so would involve potentially using terms differently from how various authors intended them to be used. Nonetheless, readers should be aware of the importance these distinctions may have in interpreting research and in drawing policy inferences from it.

6.1 Risk and Protective Factors for Delinquency

Risk and protective models increasingly have emerged to explain delinquency (Loeber and Farrington 2001). Drawn from epidemiological and developmental approaches, these models identify the range of factors known to be correlated with the onset of, pattern of, and desistance from delinquency. Those that are thought to contribute to delinquency are termed "risk" factors, while those that are thought to prevent or inhibit delinquency are called "protective" factors (Wilson and Howell 1993; Catalano and Hawkins 1995; Farrington 1998; Howell and Hawkins 1998; McCord et al. 2001). The risk and protective factor domains identified by Catalano and Hawkins (1995) include individuals, peers, families, schools, and communities. Other researchers employ different typologies (e.g., Farrington 1998) and most typically focus on the interaction of these factors with one another (e.g., Howell and Hawkins 1998). In each instance, the underlying emphasis is one of identifying a range of factors that contribute to or inhibit or prevent delinquency.

The importance of such factors should be self-evident: With knowledge about risk and protective factors, programs and policies can be, and indeed have been, developed that more effectively prevent or reduce delinquency (Howell 1995, 1997). The remainder of this section briefly describes some of the more commonly identified risk and protective factors. More comprehensive listings and discussions can be found in many sources (e.g., Wilson and Howell 1993; Catalano and Hawkins 1995; Howell 1997; Farrington 1998; Howell and Hawkins 1998; Empey et al. 1999; Hawkins et al. 2001; McCord et al. 2001; Vance et al. 2001). It should be emphasized that in each instance, the fact of an association between a particular factor and delinquency does not necessarily mean the two are causally related. Just as important, it tells us little about why there is an association. Thus, if research tells us, as it does, that association with

delinquent peers contributes to delinquency, that does not mean we know much about why this association exists.

Demographic Factors

Age

A long-standing fact in criminology is that delinquency increases dramatically during the teen years, levels off at age 18 or 19, and then declines equally precipitously (Empey et al. 1999). This pattern, known as the "age distribution of crime," varies across offenses, but has been remarkably stable over time and across countries. Explanations for the age distribution vary enormously and have been the subject of considerable debate (Gottfredson and Hirschi 1990).

Gender

Males commit more crime than females across most offense categories, although females typically are more likely to engage in certain offenses, such as prostitution and running away. However, and in contrast to traditional views of delinquency, females commit many of the same offenses that males do (Empey et al. 1999).

Minority Status

Official law enforcement data suggest that some minority groups, such as blacks, are more likely than whites to engage in delinquency. However, self-reported data indicate that the prevalence of crime among blacks and whites is roughly similar. The primary difference suggested by self-reported data lies in the incidence of offending: Blacks report committing more delinquency than whites, with the difference in aggregate incidence levels due primarily to a small group of chronic offenders (Empey et al. 1999). Consistent and accurate national data, with sufficient sample sizes for statistical comparisons of the prevalence and incidence of offending among other racial/ethnic groups, do not currently exist.

Biological Factors

Evidence in support of biological causation of delinquency remains largely mixed. Researchers have discovered that certain prenatal and perinatal factors may increase the likelihood of delinquency. These factors, such as low birthweight and premature birth, may predispose some youth to become delinquent, though most persons born with these conditions develop normally and do not engage in criminal activity (McCord et al. 2001). One of the few consistent findings concerning biological risk factors is that "anti-social and violent youth tend to have low resting heart rates" (Farrington 1998:441). Similarly, considerable research attests to the role that environmental toxins (e.g., lead exposure) and prenatal alcohol exposure can contribute to hyperactivity and impulsiveness, which may in turn be linked to delinquency (McCord et al. 2001). Determining the precise causal role of these and other risk factors has proven difficult. For example, many of the youth who experience prenatal and perinatal risk factors for delinquency come from socially disadvantaged backgrounds. It therefore remains unclear whether these risk factors directly cause delinquency, are somehow mediated through social disadvantage, or simply are associated with social disadvantage.

Psychological Factors

A number of psychological factors—including hyperactivity, impulsiveness, poor behavioral control, attention problems, low intelligence, and low school attainment—are associated with an increased likelihood of delinquency (Farrington 1998). Research suggests that young offenders typically suffer from drug abuse problems and co-occurring mental illnesses, such as conduct disorders (McCord et al. 2001). However, this research has not established a causal link between these factors (White and Gorman 2000; Mears 2001). Recent studies indicate that a developmental perspective is critical to understanding the role of psychological and other individual-level factors because their influence may vary over the life course (Tremblay and LeMarquand 2001).

Peer Factors

Delinquent peer association is one of the strongest correlates of delinquency. Youth who associate with delinquent peers are far more likely to engage in delinquent acts themselves. Most research has been unable to determine whether this association reflects a causal influence or merely an association ("birds of a feather flock together"). However, some recent research suggests that there may be reciprocal causation, with initial association being linked to a subsequent causal influence of peers, and conversely, with association resulting from a desire to associate with other delinquents, which in turn contributes to further delinquency (Thornberry et al. 1991; Empey et al. 1999). The precise role of peer association, as well as peer pressure and approval, in causing delinquency remains largely unknown, although the fact that most youth crime is committed in groups suggests the critical role of peer influence (Warr 1996).

Family Factors

A range of family factors has been linked to delinquency. Poor parental supervision, punitive discipline, parental conflict, absence of a father, neglect, being born to a teen mother, and being raised in families with four or more children are all associated with an increased risk of delinquency (Farrington 1998; McCord et al. 2001). Conversely, "consistent discipline, supervision, and affection help to create well-socialized adolescents" (McCord et al. 2001:78) who in turn are less likely to engage in delinquency. In each instance, researchers have noted the need for more nuanced understandings about other family factors that contribute to or prevent delinquency, and how these factors operate.

Socioeconomic Factors

Research on social class and delinquency is mixed. Some research suggests that there is little to no relationship, while other research suggests there is (Empey et al. 1999). For example, Elliott et al.'s (1989) analysis of the National Youth Survey data suggests that self-reported felony assault and robbery are much greater among lower class youth. Many of the existing studies examining this issue conflate individual- and community-level social conditions, thus obscuring precisely

what socioeconomic factors contribute to delinquency. Studies also vary considerably in their measures of socioeconomic status (e.g., receipt of family of welfare, family income) and delinquency (e.g., property vs. violent crime), as well as the age range of the youth population studied. Such variation indicates the need for more research that clearly defines and measures socioeconomic status and identifies how it directly or indirectly, or in interaction with other factors, contributes to delinquency.

Community Factors

Juvenile crime is higher in urban areas and in socially disadvantaged neighborhoods (McCord et al. 2001). Recent research suggests that communities with collective efficacy, which involves an ability to look out for and support one's neighbors, may have lower crime rates even if otherwise socially disadvantaged (Sampson et al. 1999). Other research suggests that in some communities there are more opportunities and support for, or acceptance of, criminal behavior, thus contributing to higher crime rates (Curry and Spergel 1998). The effects of some criminogenic factors may be enhanced by certain community-level conditions. For example, some research suggests that in disadvantaged or disordered communities, poor socialization practices have a more pronounced effect on delinquency (McCord 2000). As with much crime research, there are many more questions than answers concerning the precise characteristics and dimensions of communities that influence crime.

School Factors

Youth who perform poorly at school, who are retained (e.g., held back one year), and who are truant are more likely to engage in delinquency (McCord et al. 2001). Youth suspended or expelled from school (this occurs disproportionately among minorities, net of a range of factors), lower income youth, and youth with disabilities have not been *consistently* found by research to be more likely to engage in delinquency. The evidence suggests, however, that suspension and expulsion may increase delinquency by further frustrating students for whom school is a challenge and by leaving them unsupervised. Research shows that youth crime is widespread in educational settings, with over half of all juvenile property and violent crime victimization

occurring in schools (Harris et al. 2000). This research suggests that school conditions, such as incident and dismissal rates, may play a role, but that these conditions may in part reflect community-level conditions, such as poverty and residential stability. Considerably more research currently is needed to identify the precise school conditions that give rise to higher rates of delinquency and how these interact with individual and community-level factors.

Situational Factors

Some crime theories and research suggest that criminal behavior is more likely when certain situational conditions are present. Routine activities theory, for example, suggests that when a motivated offender and suitable target are present, and when a capable guardian is not present, crime is more likely (Cohen and Felson 1979). Modifications and tests of this theory (Clarke and Felson 1993), and a developing body of empirical research focusing on the motivation of young offenders (Farrington 1998), suggest that an understanding of situational factors can enhance our understanding of the causes of delinquency. For example, the emergence of illegal drug or gun markets may create opportunities for youth to become involved in drug trafficking, especially in contexts where the demand for drugs is great and the ability to enforce existing laws is minimal (McCord et al. 2001).

Protective Factors

From on perspective, protective factors simply represent the opposite of specific risk factors. Thus, if delinquent peer association increases delinquency, a decrease in or lack of exposure to delinquent peers should minimize or prevent delinquency. Alternatively, there may be threshold effects that result in an inhibitory or a criminogenic effect. For example, below a certain point, intelligence may contribute to delinquency, and above a certain point it may prevent or reduce delinquency. Some protective factors may have no risk factor analogue (e.g., participating in sports) or they may serve primarily to buffer or minimize the influence of a risk factor. For example, some research suggests that resilient children and youth with "healthy beliefs" may be less affected by certain risk factors (Hawkins et al. 1992; Patterson and Blum 1996). To date, however, relatively little research has systematically identified and assessed resiliency or other

potential protective factors and their role in preventing delinquency (Farrington 1998; Carr and Vandiver 2001).

6.2 Risk and Protective Factors for Delinquency among Children and Youth with Disabilities

In a recent review, Patterson and Blum (1996) identified specific risk and resiliency dimensions affecting diverse outcomes among children and youth with disabilities. According to the review, emotional issues and school failure represent critical risk factors among this population, while family cohesion and school involvement represent critical protective factors. These factors overlap with the types of factors identified in the general delinquency literature. This finding is echoed in Vance et al.'s (2001) study of treatment program youth with SED and a history of violence, which found that many of the risk and protective factors predictive of anti-social or maladaptive behavior paralleled those established in the delinquency literature.

Research suggests that explanations of delinquency and other behavioral outcomes may be similar among youth with disabilities and youth without disabilities (Howard and Penniston 2002). Youth with disabilities may have unique characteristics or face unique conditions that influence their pathway to delinquency and other behavioral outcomes (Osher et al. 2002). However, the conventional risk and protective factors associated with these outcomes appear to apply equally well to both groups of youth.

To date, and as discussed in an earlier chapter, empirical evidence more strongly supports the notion that youth with disabilities are differentially targeted and processed by schools, law enforcement, and the courts, contributing to disproportionate representation of youth with disabilities in the juvenile justice system (Keilitz and Dunivant 1986; Brier 1989; Cramer and Ellis 1996; Crawford 1996; National Center on Education, Disability and Juvenile Justice 2001; U.S. Department of Education 2001). To the extent that this is true, there may be factors unique to youth with disabilities that, while unassociated with delinquency, may contribute to a greater likelihood of differential targeting and processing. Existing research provides little consistent or compelling empirical evidence about how or why this may occur. Some theories suggest that

youth with certain types of disabilities may exhibit behaviors, such as impulsiveness or an inability to follow directions, that draw greater attention to them and result in a greater likelihood of referral to juvenile courts. Once there, these same behaviors may result in a greater likelihood that youth will be detained, formally processed, and sanctioned more severely. Whether and how specifically these or other factors affect referral, processing, and sanctioning across different jurisdictions remains largely unknown.

6.3 Risk and Protective Factors for Disability

The complex and multidimensional nature of disability means that risk and protective factors associated with having a disability are also complex. Disability is clearly linked to race and ethnicity. Both dimensions have been a major focus of policy discussions for many years. As a recent summary of the research shows, the cultural and racial/ethnic dimensions of disability, especially within the special education system, are difficult to overstate (see Table 6.3.1). Both African-American and Native American youth, for example, are much more likely than white youth to be diagnosed with disabilities and to be in disability-related classrooms. At the same time, they are less likely to receive quality services.

Racial/ethnic dimensions of disabilities overlap considerably with other dimensions, such as poverty and the impacts of poverty on families.

> The intuitive links between poverty and the existence of disabilities in children are fairly clear...[and] are now backed up by substantial research as well. Besides the obvious higher incidence of malnourishment and exposure to environmental toxins, poverty contributes to two other key factors for developmental and other disabilities: parental stress and lower stimulation in the home and in out-of-home care settings. Parental stress can lead to increased sensitivity by the child to the parent's moods or even rejection by the parents, which directly affect[s] the child's social and emotional development. Meanwhile, the home environment and the treatment of the child by out-of-home care, which is often necessary for families living in poverty, shape a child's early learning experiences, which have a direct impact on readiness for school and academic achievement. (Special Education News 2000:1)

In addition to poverty, many other factors have been linked to the problem of overrepresentation of minority students in special education programs (Artiles et al. 2001). Structural and instructional factors (preceding a student's referral for special education and related services) include the funding, resources, and quality of schooling; school size, climate, and achievement; and personnel qualifications, student demographics, and instructional issues. Other factors include cultural discontinuities between teachers and students, and the inadequacies of traditional assessment models with culturally diverse groups.

Recent analyses of nationally representative data are shedding new light on the relationships between disability, race/ethnicity, poverty, and family structure. Drawing on the Survey of Income and Program Participation and the National Health Interview Survey (NHIS), Fujiura et al. (1998) and Fujiura and Yamaki (2000) found that poverty status, and especially family structure, are much stronger predictors of childhood disability than are race or ethnicity. They also found that the relationship between poverty and risk for disability has been growing over time. Over the past 14 years, for example, risk for disability has remained fairly constant for children at or above the poverty level but has risen dramatically for children below poverty (from 7.8 percent in 1983 to 11.1 percent in 1996). After statistically controlling for poverty status and family structure, Fujiura and Yamaki (2000) found no additional risk associated with racial or ethnic minority status. These findings highlight the importance of including disability policy within broader policy discussions of delinquency, poverty, social risk, and income inequality. As Artiles et al. (2001) have observed:

> It is equally important to examine the processes and factors that protect children from the negative influence of poverty, given the growing knowledge base that suggests "competence develops in the midst of adversity when, despite the situation at hand, fundamental systems that generally foster competence in development are operating to protect the child or counteract the threats to development." Examples of such protective systems/influences include bonds to prosocial adults outside the family and effective schools. Indeed, we must strive to craft a knowledge base that emphasizes "possibility" for poor minority students. (p. 6)

Gender is also an important dimension to children's disability. Although there are approximately the same numbers of boys and girls among school-aged children, boys are significantly more

likely than girls to attend special education schools or classes (3.9 versus 2.4 percent), and boys account for about two-thirds of the special education population (Wenger at al. 1996; Jans and Stoddard 1999). Gender differentials are especially large among children with ED (76 percent are boys) and learning disabilities (73 percent are boys).

Research also has been conducted on specific diseases, disorders, and impairments causing disabilities among children. NHIS data reveal that seven disabling conditions account for more than two-thirds of children under the age of 18 with activity limitations: respiratory diseases (mainly asthma), mental retardation, mental disabilities, speech impairments, nervous system diseases, deafness, and orthopedic impairments (Wenger et al. 1996; Jans and Stoddard 1999).

7. Program and Policy Trends

This chapter identifies program and policy trends in prevention, intervention, and delinquency management strategies at local, state, federal, and tribal levels targeting children and youth with disabilities at risk of delinquency or involved in the juvenile justice system. It does not list every possible type of program and policy, nor does it focus on effective programs. It does describe dimensions along which some of these programs are effective. A discussion of effective programs is provided in the next chapter. Here, the focus is on efforts that the review suggests are common or likely to become increasingly common in coming years.

The review did not uncover any single source of information that systematically summarizes information on the past, current, or future availability and funding of relevant programs and policies. Thus, the identification of "trends" here necessarily relies on suggestions in current research and the informed assessments of researchers and people familiar with the "state of practice" in disability and juvenile justice programming and policy. Whether particular programs and policies represent actual trends may in many instances be debatable, and some observers may feel that those that have been omitted may constitute actual or likely trends.

To establish the context for situating some of the program and policy trends discussed below, it bears emphasizing that a comprehensive continuum of disability-focused initiatives—rather than adherence to any one particular effort—is likely needed to ensure that youth with disabilities have their unique needs addressed in schools and in the juvenile justice system. This continuum includes programs and services in regular education classrooms, alternative education settings, and all stages of juvenile justice processing (e.g., intake; adjudication; disposition; and placement on probation, custody, and parole). Although currently there is no systematic empirical evaluation documenting the precise needs/services gaps across this continuum, most observers suggest that the gaps are numerous (Finn et al. 2001).

7.1 State of Practice

A broad range of programs and policies bear either directly or indirectly on addressing delinquency and disability-related needs among at-risk children and youth. Those that are directly relevant include efforts that explicitly target children and youth with disabilities (e.g., special education, mental health courts). Programs and policies that are indirectly relevant include efforts that focus on all children and youth and that may disproportionately affect persons with disabilities. For example, many states have developed increasingly punitive sanctioning laws that promote formal processing of youth and minimum terms of incarceration for specific offenses (Feld 1999). Without commensurate increases in special education programming resources in correctional facilities, such efforts may result in a decreased ability to identify youth with disabilities or meet the needs of identified youth with disabilities.

Torbet et al. (1996) recently provided a general description of major trends in juvenile justice reforms, and some organizations, such as the National Criminal Justice Association (1997), have provided overviews of trends in select states. More focused studies have examined special programming in correctional settings (e.g., Rutherford et al. 1986; U.S. Department of Education 2001). However, few studies provide descriptions of past, current, or proposed types and levels of programming and policymaking among jurisdictions throughout the United States (Howell 1995; Coordinating Council on Juvenile Justice and Delinquency Prevention 1996).

This issue reflects a general problem with the lack of readily available or compiled data. Recently, Aron et al. (1996), for example, conducted a systematic study of services for children with disabilities. One of their central findings focused on the lack of basic descriptive information concerning funding for programs:

> The most glaring example of the existing gap [in knowledge about and delivery of programs for children with disabilities] was that nowhere was there gathered in a single place a simple accounting of the combined expenditures made by programs for children with disabilities. (p. 4)

Descriptions of the state of practice represent a necessary first step for allowing researchers and policymakers to determine what areas of need require greater attention. The sections below focus on summarizing what research suggests are the leading trends in delinquency interventions and juvenile justice programming, and specifically those that may affect youth with disabilities. "Intervention" here is used broadly to refer to prevention, intervention, and some delinquency management strategies. These terms can have diverse meanings, with the variation deriving primarily from differences in the timing of an intervention and the population to which it is applied (Mrazek and Haggerty 1994). In the present context, the terms refer primarily to timing. Prevention efforts entail programs and policies that target at-risk children who may become delinquent. Intervention efforts target children and youth already involved in delinquency. Delinquency management refers, at the individual level, to addressing the long-standing criminal behavior of youth, and, at the community level, to addressing juvenile delinquency through system-level initiatives, such as increased communication and cooperation among child welfare, social service, and juvenile justice systems.

This report also explored trends in racial/ethnic and gender-specific programs and policies for addressing the unique needs of youth with disabilities. Such information can be used to help develop a rough sense of the needs/services gap for these populations. However, no readily available sources systematically document the types and levels of racial/ethnic and gender-specific programming in place in schools, communities, or the juvenile justice system and targeting children and youth with disabilities who are delinquent or at risk of delinquency. Most existing sources suggest that there is a great need for such programming (Acoca 1999; Hawkins et al. 2000). In many instances this need can be measured by the fact that no population-specific programming exists in some jurisdictions (e.g., specialized juvenile justice diversion programs for girls). But consistent, empirical assessments of this need or the level of available programming are still lacking.

There is an abundance of research documenting the existence of population-specific programs (e.g., those that address specific racial/ethnic groups or males and females). Much research also has focused on the need for specialized programming to prevent or minimize the involvement of

youth with disabilities in the juvenile justice system and to ensure that their needs are met (Burrell and Warboys 2000; Finn et al. 2001; Loeber and Farrington 2001; McCord et al. 2001; Howell and Wolford 2002; Larson and Turner 2002). *However, relatively little of this literature involves empirical studies focused directly on youth with disabilities*. More important, this research does not include the equivalent of a national census on types and levels of disability-focused, population-specific programming needed and available in schools and the juvenile justice system. Such an effort would be necessary to state with confidence the state of practice for specific populations.

7.2 Prevention and Early Intervention Initiatives

As noted earlier, the newer recommended frameworks for discussion prevention and intervention efforts focus on universal, selective, or indicated measures and distinguish between malleable and unmalleable risk factors (Mrazek and Haggerty 1994; U.S. Department of Health and Human Services 2001). Because of the marked inconsistency in the way in which prevention and intervention initiatives have been described in the past, adherence to such frameworks is critical for promoting more effective communication among researchers and comparisons across programs and policies. Nonetheless, because of the continuing inconsistency in how these terms have been used, the various programs and policies described in this section are referred to broadly as prevention and intervention initiatives. The goal here simply is to highlight that many initiatives exist that aim to prevent the occurrence of problem behaviors or that aim to intervene to reduce them. Some may in fact target entire populations (universal interventions) or groups (selective interventions), but most focus on specific individuals identified with, or thought to have, some type of problem or condition (indicated interventions).

Delinquency prevention and early intervention among children with disabilities hold the potential to have a positive impact on the lives of children. For this reason, they have constituted major themes within the disability community (National Council on Disability 2002b). In both educational and juvenile justice settings, there have been many calls for greater attention to prevention and early intervention programming (e.g., Coordinating Council on Juvenile Justice

and Delinquency Prevention 1996; Finn et al. 2001; Eccles and Gootman 2002). It remains difficult, however, to assess what precisely the impacts of these calls have been or what direction prevention and early intervention programming in schools and the juvenile justice system will take. During the past decade, the overriding trend appears to have been one of promoting greater accountability. For example, most states enacted "get tough" laws designed to increase the punishment options for juvenile offenders (Torbet et al. 1996; Feld 1999). Such laws do not always undermine the funding or support for prevention and early intervention initiatives (Butts and Mears 2001). However, they clearly can reduce the availability of funding. In Texas, for example, the bed space capacity of the Texas Youth Commission nearly tripled from the late 1980s to the mid-1990s, and the costs associated with this increased demand rose accordingly (Mears 1998a, 2000).

Many studies suggest that the absence of prevention and early intervention programs has fueled greater pressure on schools to push youth with disabilities into alternative education settings and the juvenile justice system (Osher et al. 2002). At the same time, schools increasingly are under pressure to "make the grade" by achieving certain performance standards, which may be easier to meet by expelling the more difficult students to manage or serve. Indeed, since the publication of *A Nation At Risk* in 1983 (National Commission on Excellence in Education) and *A Nation Prepared* in 1986 (Carnegie Forum on Education and the Economy), parents, legislatures, and school boards have been demanding improved outcomes from primary and secondary public schools. Schools across the country have responded by adopting high academic standards, improving accountability, and achieving excellence, while at the same time cracking down on serious violations of school disciplinary codes.

Research suggests that the main beneficiaries of these changes have been college-bound youth and others who tend to respond well to the organizational culture of traditional schools (Leone and Drakeford 1999). Non-college-bound youth, children with behavioral disorders or with special needs that are not being met, and others who for a variety of reasons have not done well in traditional public schools have largely been left behind by the movement toward assessment and accountability. The high costs of serving some students with disabilities, along with the

linking of school funding to students' test performance, have given schools a strong incentive to exclude these children, by either allowing them to drop out or pushing them out to alternative education programs (Finn et al. 2001).

Against this backdrop, policymakers and advocates will need to balance the multiple needs for various services and programs in different settings. There is a clear need, for example, for even the most basic disability-related services in juvenile correctional settings. At the same time, highly effective (or well-touted) prevention and early intervention programs are emerging within schools for youth with learning disabilities. Effective services for children already involved in the juvenile justice system are required by federal law. Although such services can result in improved education and a range of other positive outcomes for these youth, they do little to stem the flow of youth into the juvenile justice system, and in general are considerably more costly than school- or community-based prevention efforts.

7.3 Intervention Strategies

Positive Behavioral Support Treatment

Positive behavioral support is a general term that refers to the application of behavior analysis to achieve socially important behavior changes (Sugai et al. 1999). Positive behavioral interventions and support (PBIS), which are often based on functional behavioral assessments (FBA), are long-term problem-solving strategies designed to reduce inappropriate behavior, teach more appropriate behavior, and provide supports necessary for successful outcomes (Warger 1999). PBIS emerged 12 years ago as an alternative to traditional behavior approaches for students with severe disabilities who engaged in extreme forms of self-injury and aggression. It has since evolved into an approach that can be used with a wide range of students, with and without disabilities (U.S. Department of Education 2000). It has also been used successfully with entire schools as well as with individual students. These successes contributed to the inclusion of both PBIS and FBA in the 1999 amendments to IDEA (Sugai et al. 1999).

PBIS interventions take on various forms when they are implemented, depending on the age group, context, and behaviors. However, all PBIS interventions are designed to be multilevel models of intervention providing a continuum of behavioral supports that address the needs of all students in a school. PBIS approaches can occur at three levels of intervention: primary, secondary, and tertiary. Primary intervention is school-wide and addresses all students in the school by evaluating the school environment to determine where and when problems are likely to occur (e.g., classroom, cafeteria, hallway), creating strategies to prevent the identified problems, teaching all students rules and routines to encourage desirable behavior (that is socially and culturally appropriate), responding to inappropriate student behavior with correction and reteaching procedures, establishing behavior support teams to monitor effectiveness of prevention strategies, and finally, using data collection (direct behavioral observation, office discipline referrals, interviews with staff and family members, etc.) and analysis to identify students who are at risk for school failure. Research based on public health models suggests that such universal prevention systems may potentially be effective for as much as 90 percent of the student population.

Those students who do not respond to the primary intervention are eligible for secondary interventions called individualized prevention systems. This next level of intervention involves developing intensive, individualized behavior intervention plans based upon information from the functional behavior assessment, monitoring and modifying the behavior plans as necessary (the responsibility of behavior support teams), ensuring that all adults in the school understand what skills these students are learning so that all settings in the school environment can be arranged in ways that reduce problem behavior and encourage appropriate behavior, and including effective instructional strategies, functional replacement training counseling, and classroom supports in behavior intervention plans.

The targeted prevention system is estimated to be potentially effective for 7 to 9 percent of the at-risk students. The remaining students with chronic/intense behavioral problems receive the tertiary intensive prevention which involves coordinating services and input from home, community, and school to develop a wraparound intervention plan that is closely monitored and

adjusted. It also involves making placement decisions from a continuum of alternatives and selecting the least restrictive environment (Sugai et al. 1999; National Center on Education, Disability, and Juvenile Justice 2002c). Additional empirical research is needed on the percentages of children who might benefit from the three levels of PBIS approaches, how they benefit, and how these benefits are mediated by poverty, community coherence, race/ethnicity, and disability.

Alternative Education

A variety of alternative education programs have been developed to serve vulnerable youth, including children with disabilities, who drop out or are "pushed" out of traditional K-12 schools (or are at risk of doing so). The term "alternative education" refers to all educational programs that fall outside the traditional K-12 school system. The programs can be physically located in many different places, and sometimes the location is what makes the program "alternative" (e.g., in a juvenile justice center).

Alternative education program settings include (in order of distance from traditional classrooms in regular K-12 schools): resource rooms (separate room/teacher provides additional services like study skills, guidance, anger management, small group/individual instruction); a school-within-a-school; and, finally, pull-out programs, which can be run out of a storefront, community center, or former school, and can include schools/programs within the juvenile justice system (detention, corrections, etc.) or the homeless services system (emergency and transitional shelters). These programs may be administered by any one of a variety of organizations including community-based organizations (CBOs), school districts, adult education divisions, state departments of juvenile justice, charter schools, and, in the case of Job Corps, contractors to the U.S. Department of Labor.

Existing alternative education programs vary by type and quality. Most offer high school or General Educational Development (GED) diplomas. However, they can differ from traditional schools by having flexible hours and schedules as well as open admission and exit policies, and tailoring instruction to the individual needs of the student, often with connections to employment

(National Governors Association's Center for Best Practices 2001). Among alternative programs there can be considerable variation in academic standards, structure and accountability mechanisms, success rates, goals and objectives, parent and community involvement, and whether they are designed to be crisis or preventative interventions or "dumping grounds" for "problem" youth (National Association of State Boards of Education 1996).

Ironically, although alternative education programs are often associated with unsuccessful students, some of them are also known for their innovation and creativity because they represent a departure from the standard approach to schooling. Their success can be measured in improved grades, school attendance, and graduation rates; decreases in disruptive and/or violent behaviors and suspensions; and an improved sense of direction and self among participating students. Key features of successful alternative education programs and schools have been summarized by the National Association of State Boards of Education (1996:1-2):

- High Academic Standards/Expectations. Researchers have consistently found that successful programs/schools set clear and high education standards and expectations for their students. The curriculum in these programs is not diluted or "watered down." Furthermore, the curricula is often expanded to enhance the educational and vocational interests of the students.

- High Standards for Interpersonal/Social Interactions. Successful alternative education programs/schools have well-defined standards of behaviors. In addition to having strict and clear expectations that are consistently applied to everyone, successful alternative programs/schools rely on interventions and an expanded curricula that foster the development of interpersonal and social skills. Most address issues such as family life, peer pressure, and conflict resolution.

- Student-Centered Education and Intervention Plans. Successful programs/schools have their structure, curricula, and support services designed with both the educational and social needs of the students in mind.

- Teacher/Student Ratio. Research findings indicate that low teacher/student ratios are important to the success of alternative education efforts. Ranging from 8 to 25 students per teacher, successful efforts have an average ratio of 1-16.

- Site-Based Management/Flexibility. Although they typically have clear and strong accountability measurements and systems, successful alternative programs and schools often operate without centralized management. Administrators, teachers, support services staff, students, and parents are involved in the different aspects of the programs/schools in which they participate. This work is conducted through issue- and task-specific committees or "quality circles."

- Parent and Community Involvement. Parent and community involvement is critical for the success of alternative programs/schools. All of the programs and schools identified in various research projects emphasize that the parents of prospective students must agree to participate in clearly defined ways beyond parent-teacher meetings. Some require that parents volunteer some of their time to the program/school, others that they participate in family life seminars.

- A Program versus a School. Many successful alternative education efforts are designed specifically as either programs or schools. Programs are intended for students who may need short-term interventions to resolve a particular problem or situation that is having a negative impact on their education. They are designed with the goal of helping the student return to the "regular" school setting as soon the presenting problem or situation is addressed and corrected. On the other hand, alternative schools are designed for students who for one reason or another are better off obtaining an education outside the traditional school setting. Often, these schools include students who must work to help support themselves and their families, or students who need specialized services and interventions but who can meet high education standards.

- Location. In some instances the location of the alternative education program or school has proven critical to its success. Programs are often set within a traditional school. In

some cases, they are located within a community school or agency. Typically, most alternative schools have their own facilities, share a facility with a larger school, or are located within community colleges or a university campus. Regardless of the location, successful programs and schools provide healthy physical environments that foster education, emotional well-being, a sense of pride, and safety.

A similar list of effective practices has been developed for school-based programs targeting children with behavior disorders and/or antisocial behavior (Tobin and Sprague 2000). These are discussed in more detail in Section 8.3 of this report.

Given their importance in the public education system, states and communities are increasingly turning their attention to alternative education issues. Research suggests they need considerably more information than currently is available (National Association of State Boards of Education 1996). Little rigorous research exists on the effectiveness of alternative education programs. A better understanding of what constitutes high-quality alternative education and how it can be promoted may lead not only to critical improvements among existing programs, but also to the establishment of new model programs. Such programs are clearly needed. The limited data available suggest that only 200,000 alternative education slots are available nationally, and only 5 percent of all out-of-school youth are enrolled in some type of alternative education program. States and communities are requesting more resources and better data, the development of data-driven accountability measures, and guidance about how to couple high academic standards with those elements necessary to ensure that alternative programs are successful (National Governors Association's Center for Best Practices 2001).

Diversion

"A central theme in the history of the juvenile court is the endless search for effective alternatives" (Ezell 1992:45). Indeed, the juvenile court itself was created as an alternative to adult court processing. Today, diversion is envisioned as a set of programs and activities—such as job training and placement, alternative schools, and family counseling—that can help prevent first-time and nonserious delinquents from detention and from penetrating into the later and more

serious stages of the juvenile justice system, and, in particular, incarceration. The justifications for diversion are numerous. It can be a cost-effective way to manage young offenders. It can be more effective in reducing subsequent delinquent behavior. And it can minimize the negative consequences sometimes associated with unnecessary detention and incarceration, including the stigma associated with being labeled a "delinquent" and the potential aggravation of existing mental health conditions and disabilities and the propensity to commit crime (Schwartz and Barton 1994).

To date, most reviews of diversion programs suggest that they are largely ineffective in practice, due to poor implementation and matching of individuals to appropriate programs (Ezell 1992). As a result, such programs typically do not appear to improve outcomes for the individuals who are diverted, and they may negatively impact juvenile justice systems by "widening the net"—that is, they pull greater numbers of youth into more serious types of interventions than would occur in the absence of diversionary programs. However, research suggests two important caveats: Younger offenders fare better in diversion programs, and more intensive diversion program contact (e.g., a greater number of hours of contact) with diverted youths results in more positive outcomes (Ezell 1992:51). Recently, some new diversion programs have shown considerable promise. For example, the Detention Diversion Advocacy Program in San Francisco has been shown to reduce juvenile court referrals (Shelden 1999). In general, however, research on diversion remains largely mixed and relies primarily on data of limited utility in drawing firm conclusions about the effectiveness of specific types of diversion programs for specific types of youth.

Although it is difficult to quantify the types and levels of diversion programs in schools and the juvenile justice system, research indicates that almost all schools and justice systems use some type of diversion program. These programs are likely to continue to be a popular focus of practitioners and policymakers, even during "get tough" eras in juvenile justice. It remains to be seen, however, whether there will be sufficient funding to provide the level of contact necessary for such programs to be effective given the redirection of resources towards deeper-end youth who are placed in custodial settings.

Disability-Related Services in Juvenile Justice Settings

Perhaps the most unifying theme underlying many of the studies reviewed for this report and the comments from respondents is the long-standing and continuing absence of a comprehensive continuum of disability-related services within the juvenile justice system. Most studies, whether based on solid empirical data or not, focus on detention and correctional settings and cite the large proportion of youth with disabilities and the low proportion of these youth who receive appropriate services (e.g., Osher et al. 2002; Rutherford et al. 2002). However, the evidence to date suggests that much the same can be said of youth in diversionary placements, on probation, and on parole.

This issue was highlighted recently by Stephen Rosenbaum, the Chief of the Special Litigation of the Civil Rights Division within the U.S. Department of Justice, the office responsible for enforcing CRIPA. He described a number of major problems seen repeatedly in "troubled institutions," including the failure to identify and provide services for children with special needs. Specifically, Rosenbaum (1999) noted the following:

> It is clear that a sizeable portion of youth in juvenile facilities has significant mental health needs. An adequate mental health system in a juvenile facility must identify mentally ill youth, provide treatment to them, keep them from harming themselves or others, protect them from abuse, and ensure that they receive necessary accommodations to enable them to benefit from programs offered at the facility. We frequently find deficiencies in all five areas.
>
> Not every mental illness is immediately identifiable by correctional staff in a juvenile facility. It is important for mental health needs to be systematically evaluated by qualified professionals. This must happen not only to facilitate appropriate professional treatment, but also to ensure that line staff can become aware of the special needs of individual juveniles and be taught appropriate responses to those needs. Far too often, we find that predictable behavior relating to mental illness is interpreted by inadequately trained staff as disobedience, defiance, or even threats. Staff respond with anger, discipline, or even force—even though other interventions could have defused the situation. (p. 6)

Nor are these system-wide problems limited to mental illness. Rosenbaum emphasized that children entering the juvenile justice system who are entitled to special education and related

services often experience an "unwarranted reduction of services" due to resource constraints, even when those services have previously been determined to be necessary by independent professionals in the community school systems. Despite significant attention to the issue in recent years, reviews suggest that the prospects are dim that significant changes in disability-related programs and services will change in coming years. Smith et al.'s (2002:3) review found, for example, that there is "no organized constituency for youthful offenders who have disability-related issues and few agencies provide direct services to these young people."

Restorative Justice

One of the most prominent trends in juvenile justice is the development of restorative justice. A recent issue of *Youth and Society*, for example, focused exclusively on restorative justice and drug abuse treatment in the juvenile justice system (*Bringing Restorative Justice to Adolescent Substance Abuse*, vol. 33, no. 22, 2001). By 1999, 35 states formally adopted restorative justice principles, with 20 placing these principles, or some variation of them, in the juvenile justice codes (Bazemore 2001).

Although different definitions and conceptualizations of restorative justice exist (Braithwaite 1998), most emphasize the idea that effective sanctioning must involve attempts by delinquents to "restore" victims and communities. As such, the focus is less on crime or the legal system, and more on the consequences of crime and how to address them most effectively. From a restorative justice perspective, the most effective approach involves attempts to "restore" victims and communities to their original state of health and to restore delinquents to a prosocial way of life. Restoration can occur through a variety of strategies, including conflict resolution classes, allowing victims and communities to participate in court decisions, requirements that delinquents make reparations to victims and communities, and treatment and education of delinquents.

Proponents of a restorative justice approach generally view it as a "holistic response to youth crime" (Bazemore 2001:201), one that focuses on the entire individual and those whom that individual has harmed. It is holistic as well in attempting to include a wide range of stakeholders

(e.g., victims, communities, families) and focusing on the different needs that specific delinquents may have and that may contribute to their negative behaviors.

As such, restorative justice approaches may hold great promise for improving the way in which the needs of youth with disabilities are addressed by the juvenile justice system. By focusing on their specific needs and building supportive networks with families, schools, and communities, the juvenile justice system would be more likely to ensure that special education and other disability-related services were provided. To date, however, few studies have systematically examined the implications of restorative justice approaches for youth with disabilities, the effectiveness such approaches would have, or how feasible it is to implement them throughout the juvenile justice system.

Specialized Youth Courts

In recent years, specialized courts—teen, drug, mental health, gun—have become increasingly popular approaches to juvenile justice processing. These courts arose in part out of dissatisfaction with "business as usual" within traditional juvenile courts (Butts and Harrell 1998; Bureau of Justice Assistance 2000; Butts and Buck 2000; Goldkamp and Irons-Guynn 2000; Arredondo et al. 2001; Mears 2001). In many respects, they reflect the same concerns that motivated the founders of the first juvenile courts. For example, critics of traditional juvenile court operations have noted the lengthy delays in processing cases, the lack of individualized and appropriate treatment and sanctioning, and the lack of sustained and consistent monitoring of the progress youth make while under court supervision. Similar problems were identified with how criminal courts handled juvenile offenders, thus giving rise to the notion of a separate juvenile justice system focused on the "best interests" of youth and individualized, rehabilitative treatment (Feld 1999). Proponents of specialized courts emphasize ways in which juvenile courts have become increasingly like criminal courts and the potential effectiveness of alternative courts that can better achieve the goals set by the founders of the juvenile court.

Specialized juvenile courts vary considerably in how they are conceptualized by policymakers and practitioners in different jurisdictions (Butts and Buck 2000). However, most anticipate that

the alternative form of processing will focus on less serious offenders, their specific risk and needs factors (including systematic assessment of these factors), and determine appropriate, individualized treatment and sanctions. The two fundamental premises are that this alternative approach will be implemented as designed and that it will have the desired impact (e.g., better treatment of mental illness and reduced recidivism). To date, however, few rigorous, empirical evaluations have demonstrated consistent support for both premises. The growing number of these courts, along with ongoing evaluations of many of them, should allow for more definitive assessments in the future.

Skeptics of specialized courts note that in practice these courts rarely are implemented as designed. That is, practice does not reflect theory (Goldkamp and Irons-Guynn 2000). At the same time, they note the possibilities for negative unintended consequences. The National Mental Health Association (2001), for example, has expressed concern that mental health courts can be inappropriately coercive, resulting in greater stigma for defendants. (See, for example, the case study on mental health courts.) Net-widening is also a concern. Many specialized courts may "pull into the net" of the justice system youth who otherwise would have had their cases dismissed or who would have received nominal sanctions.

Clearly, specialized courts hold considerable promise for improved juvenile justice operations (Butts and Harrell 1998). They also serve as a potentially more attractive model than the idea of a unified juvenile and criminal justice system (Feld 1999). At the same time, if implemented well, they could have significant impacts for youth with disabilities. Their focus, for example, on better screening and assessment and individualized treatment could result in improved identification of and possibly services for youth with disabilities. At present, it remains unclear what the actual impacts are for these youth. Few studies have provided systematic and rigorous empirical documentation of the implementation and impacts of these courts or focused explicitly on youth with disabilities. Nonetheless, the sheer growth in specialized courts suggests the impact, whether positive or negative, is large, and that further research thus is warranted.

Information-Sharing

During the past decade, there have been increasing calls for greater information-sharing within and among the juvenile justice system and other systems, including educational, child welfare, and social service agencies (Medaris et al. 1997). Many states have enacted laws promoting or even requiring greater information-sharing in juvenile justice systems (Torbet et al. 1996). Proponents of information-sharing point to the increased efficiency of processing and the greater likelihood that the unique needs of youth will be identified and addressed. Skeptics point to the possibilities of information being abused.

Traditionally, educators have been cautious about sharing student records, reflecting concerns about legal restrictions imposed by the Family Educational Rights and Privacy Act (FERPA). They and others, such as public defenders, suggest, for example, that a youth's personal and family information, or their educational records, may be misused by prosecutors to adjudicate youth as delinquents and to obtain more severe sanctions than prosecutors otherwise might. However, FERPA restrictions—designed in part to protect the privacy of youth and their families—need not universally limit the sharing of all information with others, including the juvenile justice system:

> FERPA allows schools to play a vital role in a community's efforts to identify children who are at risk of delinquency and provide services prior to a child's becoming involved in the juvenile justice system. . . . Educators [can] share information with juvenile justice system agency officials on children who are at risk of involvement or have become involved in the juvenile justice system, prior to adjudication, to the extent state statute allows. . . . As more and more states establish information-sharing programs to serve students through cooperation with the juvenile justice system, the emphasis on neighborhood school participation in interagency information-sharing agreements will increase. FERPA need not be a barrier to this progress toward proactive information-sharing networks. (Medaris et al. 1997:8)

As these comments suggest, interagency information-sharing appears likely to increase in coming years, and the general, and seemingly reasonable, assumption appears to be that this sharing will result in beneficial outcomes. At the same time, the comments obscure the considerable

complexity involved in the way both federal and state laws can determine what information can and cannot be shared within and among various agencies.

More importantly, debates about information-sharing have occurred within an empirical vacuum. Indeed, juxtaposed against the trend towards greater information-sharing and the widely held belief that this information-sharing will improve case management and services is the fact that there currently are almost no systematic empirical assessments about actual practices or the impacts of these practices (National Consortium for Justice Information and Statistics 1997). Studies and anecdotes can be found to support competing views. For example, some studies suggest that even with laws that promote greater sharing of juvenile court records among court actors, there is little impact on information-sharing (Miller 1997:28). Others suggest that the lack of information-sharing of the most basic data from youth records results in considerable inefficiency and inappropriate processing of cases in juvenile court (National Consortium for Justice Information and Statistics 1997). Indeed, since many courts lack sufficient resources to conduct their own assessments, any information from schools, child welfare, and social service agencies can be critical for ensuring that a youth's service needs are identified and continue to be met. At the same time, legitimate concerns have been raised by practitioners and researchers concerning the misuse of information, especially information from schools and juvenile court assessments (Mears and Kelly 1999). Prosecutors may, as noted, misuse this information to obtain tougher sanctions rather than to ensure that youth receive appropriate services.

Without empirical studies of the practice and impacts of recent policies and laws, it will be impossible to assess the merits of greater information-sharing. In practice, such sharing could occur as envisioned by policymakers and could yield considerable benefits for all youth, especially those with disabilities and disability-related needs. It also could result in marked abuse of information, generating greater stigma for and criminalization of youth with disabilities. Or, more benignly, the information may be shared more frequently but will not actually be used.

7.4 Delinquency Management Strategies

Transfer

During the past decade, a series of "get tough" reforms designed to control juvenile crime more effectively were enacted in juvenile justice systems nationally. In contrast to prevention and intervention initiatives, these reforms sought to enhance youth accountability and the punishment of young offenders. One of the primary mechanisms for achieving these goals was the enactment, expansion, or modification of transfer laws in almost every state in the country.

Transfer, sometimes referred to as waiver or certification, involves sending a juvenile to adult court through any of a wide range of procedural mechanisms (Snyder and Sickmund 1999; Butts and Mitchell 2000). In some states, for example, the commission of certain types of offenses automatically results in a youth being tried in adult court, assuming that the prosecutor charges a transfer-eligible offense. In others, prosecutors determine whether a particular youth should be tried in adult court, given that a particular offense has been committed. Many other variations exist as well. For example, some states have youth who commit certain offenses begin their hearings in adult court, placing the burden on the youth to explain why they should be sent to juvenile court. Regardless of the precise mechanisms, the basic premise is that the severity of some offenses, or the criminal character of some young offenders, requires a more serious sanction than what the juvenile justice system can provide. (In most states, youth sentenced to terms of incarceration as juveniles remain in custody until age 20 or 21.)

Fewer than 1 percent of all delinquency referrals annually result in transfer to adult court (Mears and Kelly 1999). Reviews of transfer research suggest a number of initially counter-intuitive findings (Howell 1996; Snyder and Sickmund 1999; Butts and Mitchell 2000; Butts and Mears 2001). For example, transfer does not always result in more certain or severe punishments. Indeed, it can have precisely the opposite effect. The reasons may vary, but one explanation is that adult courts may look more charitably on young offenders, thus reducing the likelihood of conviction or, if convicted, incarceration. Only for the most serious offenses, roughly one-third of

all transferred cases (Butts and Mears 2001), does transfer increase the likelihood of a more severe punishment. For less serious offenses, such as property and drug offenses, youth in adult court typically receive less severe sentences than do youth disposed in the juvenile justice system.

Research on transfer also identifies unintended consequences, including offsetting impacts that result in sanctioning outcomes similar to what occurred prior to new transfer legislation. One recent study, for example, showed that when Pennsylvania switched from judicial transfer to automatic transfer of youth to criminal court, there was little change in the final outcomes for young offenders, although the process for achieving those outcomes became increasingly complex (Snyder, Sickmund, and Poe-Yamagata 2000). The expected increase in cases sent to adult court did not arise largely because many criminal courts "decertified" cases, sending them back to juvenile court, or because criminal court prosecutors decided not to pursue the cases due to the lesser severity of the cases or the lack of evidence.

In short, transfer laws have become increasingly popular. But they also have made the sentencing process of young offenders much more complicated without necessarily changing the final outcome. They do not appear to have resulted in any greater punishment or deterrent effect, either among youth who are transferred or in states that have tougher transfer laws. Indeed, some studies suggest that youth who are transferred may recidivate at a greater rate than non-transferred youth. Transfer thus appears to be a policy that looks effective as a crime control measure but that in practice either has little impact or negative unintended consequences.

By law, most transferred youth with disabilities are covered by IDEA, but there are significant exceptions. Burrell and Warboys (2000) have described the application of IDEA in some detail:

> Most youth with disabilities under the age of 22 incarcerated in adult criminal corrections facilities are covered under IDEA's provisions. The only group excluded from entitlement to FAPE comprises inmates ages 18 through 21 (to the extent that state law does not require that special education and related services under part B be provided to students with disabilities) who, in the last educational placement prior to their incarceration in adult criminal corrections facilities, were not identified as having disabilities and did not have IEPs. The 1997 IDEA amendments also provide

> that youth convicted as adults under state law and incarcerated in prison are not entitled to participation in state and districtwide assessments, the benefit of requirements related to transition planning, or transition services if their eligibility for services will end, because of their age, before they are eligible to be released from prison based on consideration of their sentence and eligibility for early release. As noted previously, the 1997 IDEA amendments permit the IEP team to modify the IEP of an inmate convicted in adult criminal court under state law and incarcerated in a prison if the state has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated. Other than these limitations, all IDEA protections apply to eligible youth in prisons. (p. 13)

The respondents in the interviews for this report highlighted this issue as one in which the law remains ambiguous and where actual practice is largely unknown. This assessment accords with a review of the literature. Few if any studies systematically examine the role of disabilities in transfer proceedings, the impact it has on the decision to transfer to adult court sentences, or the extent to which youth with disabilities in the criminal justice system have their needs addressed. Indeed, there are many basic questions about disabilities and transfer that remain largely unanswered. It remains, for example, unclear whether having a disability disproportionately affects the likelihood of transfer. We do not know whether or how prosecutors or judges take a youth's disability into account when deciding to transfer a youth. What proportion of youth transferred have disabilities, and what are the proportion of youth with disabilities who are convicted and placed on probation or in correctional settings? How do the services they receive compare with what they would have received if they had remained in the juvenile justice system? In each instance, there is no known national study or review of literature that provides empirically based answers.

Sentencing Guidelines and Graduated Sanctions

As part of a general trend toward greater accountability and punishment in the juvenile justice system, many states, including Illinois, Kansas, Nebraska, New York, Texas, Utah, Virginia, and Washington, have increasingly turned towards sentencing guidelines and graduated sanctions to guide decisionmaking about young offenders (Mears 2002). Sentencing guidelines generally involve a grid that identifies—based on criteria such as the type of offense, history of offending,

and presence of a weapon—a recommended or required sanction. Graduated sanctions constitute a type of sentencing guideline in that they list increasingly more severe sanctions for youth who commit particular types of offenses or engage in repeated crime (Wilson and Howell 1993; Howell 1995). For each sanction level, graduated sanction models encourage an appropriate set of rehabilitative treatment options. In so doing, they integrate rehabilitation and punishment into the recommended decisions that prosecutors and judges render.

The motivation for sentencing guidelines and graduated sanctions models stems in part from the observation that prosecutorial and judicial decisions can be inconsistent both within and across jurisdictions. Advocates of guidelines and graduated sanctions models believe that a formalized strategy for determining what sanctions and treatments are appropriate in specific contexts can serve to reduce this inconsistency. Motivation stems as well from the hypothesis that with more certain and consistent sanctioning, deterrence will be greater.

Relatively little research has assessed the implementation or impacts of sentencing guidelines and graduated sanctions models in the juvenile justice system (Mears 2002). It is not clear therefore whether they promote greater consistency in sanctioning and treating young offenders or whether there is a greater deterrent impact. Observers disagree about the merits and impacts of a more formalized approach to processing young offenders (Mears 1998b, 2002). Some argue that the foundation of the juvenile court is the correct one, with decisions about sentencing and treatment guided by a consideration of the unique facts in each case. For them, guidelines and sanctions models make little sense because of the risk that decisions will be made with little consideration of the unique needs of individual youth. They point to some of the more pronounced failures of federal and state adult sentencing guidelines, including continued inconsistency in sanctioning. Research has shown that under these guidelines, prosecutors rather than judges exercise greater discretion, through their charging and plea bargaining practices, about how cases are handled (Forer 1994; Tonry 1999). Others argue that individualized sanctioning and treatment can occur within the framework provided by guidelines and sanctions models. This debate likely will continue until empirical research addresses the actual uses and impacts of these approaches.

The potential for sentencing guidelines and sanctions models to help or harm young offenders with disabilities also remains unknown. To the extent that graduated sanctions models encourage juvenile justice practitioners to provide appropriate interventions with particular sanctions, they may benefit youth with disabilities. To the extent these models in practice become vehicles through which non-individualized, offense-based decisions are encouraged, they clearly risk disproportionately impacting youth with disabilities. These youth may be less capable of advocating for themselves and they may not have the benefit of counsel who understand the particular needs of youth with disabilities. Consequently, youth with disabilities may receive more punitive sanctions than what non-disabled youth receive, with the added problem that they have specialized needs that will go largely unmet. As with the debate about guidelines and graduated sanctions models generally, it remains unclear what the actual practice is and what the impacts on youth with disabilities are.

What is clear is that defense counsel increasingly can play a critical role in what remains a fundamentally adversarial process in juvenile justice, especially in states with sentencing laws that place increasingly more discretion in the hands of prosecutors. Researchers have documented, for example, the limited availability and adequacy of defense counsel in many juvenile justice proceedings and the adverse consequences that result (Feld 1999). Given the complexity of disability law and the adversarial nature of juvenile justice proceedings, it is therefore likely that under many recent sentencing laws, youth with disabilities who lack quality representation may be even more likely to be formally processed and less likely to receive the evaluations and services to which they are entitled (Peikin 2001).

7.5 Juvenile Justice in Tribal Contexts

Juvenile justice systems vary dramatically across local jurisdictions and states, but they vary as well between and among Native American and non-Native American settings. Native Americans are a diverse population, with an estimated 400-500 tribes currently in existence in the U.S. (Stubben 2001). This diversity reflects variation in tribal languages, family structure, cultural heritage, and traditions. For many Native American youth, a continuum of possibilities for

experiencing tribal identity exists, ranging from the experience of being born and raised on a reservation and speaking a native language to being in a city with little to no direct connection to a tribe (Beauvais 2000). The social disadvantage experienced by most Native American Indian youth is extreme. The vast majority of these youth endure poverty, limited employment opportunities, substandard housing, high dropout rates from schools, and medical and health problems, including high rates of alcoholism and drug abuse, as well as prejudice and discrimination (Campbell 2000; Sanchez-Way and Johnson 2000). This section identifies several of the most pressing problems confronting tribal youth with disabilities, and tribal youth in general, and links this discussion to federal justice programming efforts and cultural issues relevant to effectively addressing the needs of this population.

Addressing the Needs of American Indian Youth

The challenges facing American Indian youth are well documented. Senator Ben Nighthorse Campbell (2000) recently outlined the many obstacles tribal youth face in today's society. His insights are important because of his knowledge of both American Indians and federal policy.

Unemployment, poverty, discrimination, and sub-standard housing have been long-standing issues in tribal communities. Campbell noted that these factors, combined with poorly funded schools, poor mental and physical health care, and weak family structures, have created a world for tribal youth where successes are few and far between. Gang affiliation, substance abuse, depression, diabetes, and obesity are among the hardships and challenges facing many American Indian youth today. And, as Campbell emphasized, the suicide rate for tribal youth remains triple that of the U.S. population rate for the same age group.

Indeed, there are many sobering facts about the conditions facing tribal youth, some of which were highlighted in a recent program announcement from the U.S. Department of Justice (2002) in its solicitation for a National Training and Technical Assistance Program for Tribal Grantees, American Indian Tribes, and Alaska Native Communities:

- American Indians younger than 18 were incarcerated for alcohol-related offenses at twice the national rate.
- In more than two-thirds of the cases involving family violence, the assailant was under the influence of alcohol.
- In 1999, there was approximately one substantiated report of child abuse or neglect for every 30 American Indian children under the age of 15.
- Between 1996 and 2001, the number of American Indian juveniles in federal custody increased 82 percent.

Although this report could find no statistics indicating how many tribal youth have specific types of disabilities, the American Indian Disability Technical Assistance Center (AIDTAC) estimates that about 26 percent of all American Indians and Alaskan natives have a significant disability (http://www.aidtac.org/CommonThreads.htm, accessed 8/19/02). According to a 1994-95 survey of 143 randomly selected tribes, emotional disabilities were among the most commonly reported disabilities (http://www.aidtac.org/AIDLSurvey.htm, accessed 8/19/02). Many tribal youth also struggle with learning disabilities, mobility disabilities, fetal alcohol syndrome, and issues of self-care.

Few of the tribes surveyed had adequate budgets for disability services. Currently, tribes are responding to disability issues through a variety of measures, lacking a centralized set of laws such as the ADA.

> Under current federal law, for the ADA to apply on tribal lands either a separate negotiation must be conducted with each of the approximately 547 tribes currently recognized by the Federal Government or the tribes must initiate the process for themselves. While this arrangement clearly allows the tribes to protect their cultures and values, it means that special efforts must be made to extend potentially good ideas to those on tribal lands who might benefit from them (http://ruralinstitute.umt.edu/rtcrural/Indian/Factsheets/AIDLHistory.htm, accessed 8/21/02).

Some tribes have adopted features of the ADA, while others have created their own standards and approaches that emphasize the unique ways in which tribal cultures understand and address disability. According to AIDTAC, at least one tribe has created its own Office of Special Education to ensure that the educational needs of tribal children with disabilities are met (http://ruralinstitute.umt.edu/rtcrural/Indian/Factsheets/AmITribes.htm, accessed 8/21/02). No mention was made of any programs to assist children with disabilities who have had contact with the juvenile justice system.

As Chairman of the Committee on Indian Affairs, Campbell has supported many proposals to help alleviate some of the problems confronting attempts to address the needs of tribal youth with disabilities. Proposals on health care, drug and alcohol abuse, and education strive to promote a better environment for all American Indians. Although Campbell acknowledged that the Federal Government has increased its assistance to American Indian tribes, these programs are often limited in scope and distributed to only educational and preventative programs. Even in these cases, funding rarely if ever comes close to matching the extent of demand.

Campbell emphasized that programs focused on health, vocational, and social and character development are the most successful for tribal youth. He maintained that a return to tribal culture is an important part of decreasing delinquency and other problems. Increased job opportunities, treatment facilities established by the tribe, and programs incorporating family and culture are also critical to the success of American Indian youth. He called for the continued and increased support by the Federal Government in providing jobs, improving education, and providing mental and physical health care.

Yet many barriers inhibit tribal youth development and likely have an even more pronounced impact on youth with disabilities. These barriers include poorly funded schools, poor health coverage (including mental health), weak family structures, discrimination, poverty and poor housing, drug and alcohol abuse, gang involvement, depression, and suicide. At the same time, there are, according to Campbell, many strategies for overcoming these barriers. These include programs addressing vocational, educational, and health needs; programs emphasizing family

and focused on tribal values; health care and treatment centers designed and implemented by Indian tribes; improved educational facilities; and the creation of job opportunities.

Federal Justice Programming to Address the Needs of American Indian Youth

The Tribal Youth Program (TYP), established in 1999 by Congress, is an effort on the part of the Federal Government to address the issue of high crime arrest rates for tribal youth. The TYP and the background that led to it were recently described in a report by Cheryl Andrews (2000). According to Andrews, while the arrest rate for American Indian juveniles has decreased over the past few years, it is still about 20 percent higher than the rate of the 1980s. In addition, tribal youth continue to be grossly overrepresented in the Federal Bureau of Prisons.

Law enforcement on tribal lands is a complicated issue. Certain crimes on tribal lands are federal offenses, as American Indians are not usually subject to state and local laws. Other crimes are dealt with in tribal courts. However, many tribes lack basic law enforcement services and their juvenile justice systems are underfunded and lack comprehensive programs. According to Andrews (2000), the Indian Country Law Enforcement Initiative enacted in 1999 provides funding to help train law enforcement personnel, provide much needed intervention services, and improve the administration of justice on tribal land. The TYP is part of that initiative and funds a variety of programs aimed at the juvenile justice system.

The TYP funds discretionary programs, mental health projects, comprehensive Indian resources for community and law enforcement, research and evaluation, and training and technical assistance programs. Discretionary programs focus on reducing and preventing delinquency among tribal youth through community needs assessments, prevention programs, and education programs. Discretionary programs funded under the TYP also strive to improve the juvenile justice system by using indigenous justice strategies and by training law enforcement and court personnel. Alcohol and drug use prevention are a focus for many of the discretionary programs funded by the TYP.

The basic goal of the TYP discretionary funding is to encourage tribal-based solutions to delinquency problems. For instance, in the Yurok Tribe of Eureka, California, elders teach youth about traditions and culture to encourage respect and a feeling of community. In the Navajo Nation, programs designed to reduce recidivism use sweat lodges and talking circles to help families and youth deal with crime and substance abuse problems. More than $8 million worth of grants were distributed to 34 tribal communities for discretionary programs.

The TYP Mental Health Project provides funding to help develop "innovative strategies focusing on the mental health, behavioral, substance abuse, and safety needs of Native youth, their families, and their communities" (Andrews 2000:13). A cornerstone of the Mental Health Project is the emphasis on intensive case management and providing a broad range of services for youth experiencing mental health and substance abuse problems in the juvenile justice system. As with the discretionary programs, programs focused on local solutions, community involvement, and cultural sensitivity are encouraged.

The $1 million available to the Mental Health Project is used for a variety of purposes, including

- funding to improve mental health education and substance abuse services by including culturally sensitive interventions;
- improving the ability to identify at-risk youth through risk assessment and improved diagnostic tools;
- funding psychological and psychiatric evaluations as well as counseling for a number of mental disabilities; and
- the development of programs aimed at teaching conflict resolution skills.

The Mental Health Project also provides mental health services for court-involved American Indian juveniles who are exhibiting anxiety, depression, or suicidal behavior. As part of the funding for court interventions, therapeutic group homes and foster care are supported in tribal communities, as are programs that provide family services and counseling.

The TYP shows promise in dealing with American Indian youth who have emotional, mental, and substance abuse problems. The extent to which it does or can address the needs of youth with other disabilities remains unknown.

Cultural Issues in Addressing the Needs of American Indian Youth

In an attempt to address a long history of American Indian drug and alcohol abuse, many tribes are now looking to make cultural activities a part of treatment and prevention. According to Sanchez-Way and Johnson (2000), who recently examined this issue, a strong identification with tribal culture may act to protect American Indian youth from the risk of substance abuse. Although there are few empirical data to support this hypothesis, powerful testimonies about the success of cultural interventions suggest that they may be a critical part of successful drug and alcohol treatment.

Researchers believe that culture may change behavior through family and peer influences. Sanchez-Way and Johnson reasoned that individuals who have a connection to family and a stake in their community may be less likely to abuse drugs and alcohol. This hypothesis was supported by findings in a study conducted by the Center for Substance Abuse Prevention. In this study, a program that used storytelling to help tribal youth identify with their culture was found to help prevent and decrease drug and alcohol use. These findings were especially significant for males.

Sanchez-Way and Johnson (2000) outlined factors that are the most effective in preventing and decreasing substance abuse for American Indian youth. These factors included

- strong relationships within the family;
- family supervision and discipline;
- clear positive standards for behavior;
- family and peer norms that discourage substance abuse; and
- academic achievement.

Although these factors are not surprising, the addition of cultural interventions, such as learning sacred dances, storytelling, making traditional attire for powwows and ceremonies, as well as learning to hunt, fish, and engage in other traditionally American Indian activities, may encourage the development of these protective factors. These types of cultural interventions may be particularly critical for youth with disabilities. Sanchez-Way and Johnson (2000) have emphasized, for example, that tribal youth who are marginalized are at the greatest risk for drug and alcohol abuse. By giving youth with disabilities a stake in the community and culture, tribes may decrease the risk for substance abuse, and perhaps delinquency in general as well.

8. Promising Practices and Criteria/Measures of Effectiveness

This chapter examines promising practices in prevention, intervention, and delinquency management. It begins by discussing several general issues that help establish the context for understanding what a "promising" practice is and how such determinations are made. The issues fall into three broad categories: measurement of effectiveness; "best practices" and "what works," and why this chapter focuses on "promising" practices; and different stages within the juvenile justice system that interventions can target. The chapter then identifies principles of effective practice, which provide general guidelines for how interventions can be structured and evaluated. Three different types of programs and policies—prevention, intervention, and delinquency management—are discussed. The chapter concludes by reviewing what empirical research tells us about the effectiveness of enforcing federal disability law to provide services to children and youth with disabilities.

8.1 General Issues

Measuring Effectiveness

Recent meta-analyses and reviews of delinquency interventions have focused on the need for science-based programming that involves clear criteria for assessing effectiveness (Cullen and Gendreau 2000). Within the juvenile justice system, many states implement interventions that have little to no scientific basis or simply have not been evaluated (Mears 2000). Frequently, these states adopt unrealistic expectations for interventions, focusing primarily on reducing recidivism rather than more realistic intermediate outcomes, such as improved reading abilities, cognitive functioning, and social skills (Howell 1995).

The basic problem lies in the need to develop knowledge about different types of effective interventions, and what criteria and measures of effectiveness are appropriate for each. For example, a policy designed to enhance communication, cooperation, and coordination of efforts among local and state child welfare and juvenile justice agencies presumably requires the use of

different evaluation measures than a program aimed at improving the mental health of youth referred to juvenile court. In both instances, the ultimate goal might be to improve outcomes for youth. However, the former effort would suggest the need for more temporally proximate measures appropriate to the level of intervention (e.g., Are agency staff communicating better with one another? Are more agencies collaborating with one another than they did in the past?). By contrast, the latter might focus more explicitly on improved mental health outcomes for referred youth. If one were to focus on school-based prevention initiatives, the outcomes might vary yet again. For example, greater emphasis might be given to the reliability and validity of screening and assessment procedures, or attempts to link school-based services with supplemental family or community-based resources.

These issues become especially important when assessing the effectiveness of interventions for children and youth with disabilities at risk of delinquency or involved in the juvenile justice system. In these cases, even if an intervention does not reduce recidivism, it might be considered a success if it enhances other aspects of a youth's life. It might also be viewed a success if it results in the provision of legally required and/or appropriate services, even if no direct link can be made to educational or crime-related outcomes. Moreover, since disability-related conditions vary tremendously, it is necessary to determine whether particular interventions succeed in addressing these disability-specific conditions and to be explicit about what "success" means according to the type of disability involved.

It should be evident that there is and can be no single, universal set of measures for examining the effectiveness of interventions that in one way or another touch on possible links between disabilities, delinquency, and involvement in educational and juvenile justice systems. Rather, appropriate measures will vary depending on the precise goals of a particular intervention. Of course, at the most general level, policymakers and advocates for youth with disabilities may be interested in measures that can help them to identify whether schools, justice systems, communities, states, and the Federal Government are effectively addressing the needs of youth with disabilities who are at risk of entering or are already in the juvenile justice system. In that sense, a measure of the extent to which individual youth with disabilities receive appropriate

services, including especially those that fulfill their IEP goals, is the ultimate criterion or "gold standard." However, a wide range of intermediate outcomes must be specified to determine how specific efforts (e.g., screening and assessment tools, interagency collaborative agreements) contribute to achieving this standard. In addition, policymakers and advocates may want to know how particular interventions achieve this broad-based standard. Those concerned with the juvenile justice system will want to know how exactly specific efforts result in reduced referrals and recidivism, as well as improved service delivery.

The range of program and policy options for addressing the needs of youth with disabilities and preventing and managing delinquency among them may vary greatly. A focus on particular programs can obscure the fact that a general set of principles may help unify diverse programming efforts. For that reason, the next section of this chapter (8.2) begins by outlining principles of effective intervention that researchers have identified, and then proceeds to discuss specific prevention, early intervention, and delinquency management strategies for children and youth with disabilities who may enter or are already involved in the juvenile justice system.

Identifying "Best Practices" and "What Works"

Despite increasing interest among policymakers and practitioners in interventions that "work" or that are "best practices," few studies systematically adhere to the same criteria for identifying these interventions. Scientifically, the "gold standard" for assessing the impact of a program is an experimental design. However, few social programs lends themselves to this type of evaluation. Even if an experimental evaluation were conducted and a program was shown to have a statistically significant and substantial impact, it might be unclear how exactly that impact was achieved. For this reason, impact evaluations ideally are coupled with process evaluations showing whether an intervention was implemented as designed and whether targeted areas of change were what led to the improved outcomes. But even with such a study in hand, it is not until an intervention has been studied repeatedly that we begin to have confidence that it indeed contributes to improved outcomes. Our confidence increases even more if the intervention works for a variety of populations under a variety of settings.

The problem with many studies that identify interventions that "work" or that are "best practices" is that they frequently have not been well-studied. They may not articulate a clear theoretical foundation—that is, they fail to specify exactly how (through what mechanisms) the program is supposed to result in improved outcomes. They also may not clearly identify the key intervention components (e.g., types and levels of staffing, sequencing of treatment, characteristics of appropriate populations for the intervention). As importantly, the evaluations may fail to use the most appropriate or relevant outcome measures for assessing the intervention's impact. This can either obscure or create the appearance of actual improvements.

In determining whether an intervention "works" or is a "best practice," there are several critical dimensions that should be met. Some of the more important dimensions include

- the use of experimental or quasi-experimental designs, focusing on appropriate process measures (e.g., program operations), intermediate impact measures (e.g., the areas of change that are supposed to contribute to longer-term outcomes), and outcome measures (e.g., improvements in emotional or academic functioning);
- repeated evaluations with many different populations (e.g., individuals with different disabilities) and in different settings (e.g., rural/urban areas, small/large schools);
- the existence of many studies that have had sufficient sample sizes and that were unaffected by factors that could offset the integrity of the studies (e.g., sample attrition);
- a clear theoretical foundation or logic model of how the intervention is supposed to work;
- a clear description of the core features of the intervention and how it is supposed to be implemented.

Many sources discuss these and other criteria for determining whether particular interventions "work" or are "best practices" (e.g., Elliott 1997; Sherman et al. 1997; Cullen and Gendreau 2000). Of course, not everyone will agree on the specific criteria that must be met. But at minimum, the criteria should be articulated explicitly, and most presumably would include many of the dimensions discussed above.

To date, few interventions targeting the population of interest for this report have been sufficiently evaluated to state with confidence that they are "best practices." However, two evaluation literatures have emerged that provide a foundation for conceptualizing what such practices might be for this population: research on youth with disabilities (with no specific focus on delinquency), and research on delinquents in the juvenile justice system. Interventions identified in these literatures may well "work" as effectively for youth with disabilities who are delinquent and/or involved in the juvenile justice system. But such an assessment should be made empirically. For this reason, the interventions discussed later in this chapter generally are referred to as "promising practices."

Opportunities to Address the Needs of Youth with Disabilities

Before entering the juvenile and adult justice systems, while proceeding through these systems, and upon reentry back into communities, there are many opportunities to intervene with and provide services to youth with disabilities. A focus on any one program or policy likely will obscure this fact. It thus will fail to highlight the numerous opportunities for addressing the needs of youth with disabilities, and, by extension, the need to take a broad-based view of the kinds of programs and policies that may be effective.

As discussed earlier, Figure 4.2.3 depicts the range of opportunities for intervening with youth before, during, and upon leaving the juvenile justice system. Communities, families, and schools represent the primary agents through which a youth with a disability can be appropriately identified as having a disability and linked to services. Once within the juvenile justice system, intake constitutes a critical juncture for identifying youth with disabilities and ensuring their needs are met. Whether dismissed, detained, or referred to the courts for formal processing, or whether then placed on probation or in a residential treatment facility or secure custody, the constant is that a youth with a disability will have needs and rights that should be addressed--who can and should take responsibility for ensuring this happens may vary depending on the type of processing (Burrell and Warboys 2000). The consequences of not addressing the

needs of these youth include a greater likelihood that the youth will become further involved with the juvenile justice system.

The stage of processing is directly linked to the opportunities to intervene. Youth in custodial settings, for example, can receive daily instruction and services from correctional staff. By contrast, youth on probation may remain in schools or be placed in alternative school settings. Because of the community placement, they may also be linked to a variety of local services that together may result in a more comprehensive, individualized rehabilitation plan than could occur in most correctional settings.

All youth released from custody will reenter communities. For this reason, there should be continuity in the services they received while in custody. Schools and residential treatment facilities can, for example, communicate with one another about a youth's performance and any special needs that should be taken into account. Families can play a unique and critical role in this transition as well. As with intake practices, we know relatively little about actual aftercare/parole practices, but the evidence to date, including the interviews conducted for this report, suggests that they currently are minimal to nonexistent in most jurisdictions. As a result, the effectiveness of custodial-based services is likely compromised, and the risk increases that youth will not successfully transition back into families, schools, and communities, or, therefore, receive the disability-related services to which they are entitled by law.

Table 8.1.1 extends the above discussion by identifying some of the ways in which federal disability law applies to specific stages of juvenile justice processing and where certain strategies can be adopted to ensure better implementation of federal law and more appropriate intervention with youth with disabilities. Throughout juvenile justice processing in general, and at specific stages (e.g., intake, diversion, disposition, incarceration, or youth transitions back into communities), federal disability law provides general mandates about what the justice system must do. IDEA, for example, should be implemented in all local and state juvenile and adult correctional facilities. At the same time, the ability of the juvenile justice system to conform with mandated practice is not always clear. For example, Burrell and Warboys (2000:8) have noted

that "IDEA amendments require thorough scrutiny of behavior needs and implementation of appropriate interventions that may far exceed what most juvenile courts are able to provide."

Osher et al. (2002:19-22) recently provided a more extensive discussion of several of these stages and the steps that juvenile justice systems can or should, by law, take to address the needs of youth with disabilities. Their discussion highlights the current lack of knowledge about how youth with disabilities are in practice processed by the juvenile justice system. For example, they emphasized that many jurisdictions across the country attempt to divert youth away from the juvenile justice system through informal processing. Under this mode of processing, prosecutors or some other representative of the court agree not to file charges (a petition) if the youth agrees to enter certain diversion programs, complete some type of community service, etc. Osher et al. (2002:20) have noted that "the law clearly requires the entity making a decision to divert a youth to make accommodations for any disability, which may influence whether the youth is diverted or not." At present, however, there exists no nationally representative information, or even sophisticated studies from local jurisdictions, about the nature and extent of informal processing of youth with disabilities or how and to what extent prosecutors "make accommodations for any disability."

Against this backdrop, recent reviews highlight the considerable risk that youth with disabilities face when they do not receive adequate representation by defense counsel—including requests for assessments to identify disabilities or for accommodations of identified disabilities—or treatment from the courts. This concern has led to the generation of guidelines for how court systems can most effectively ensure that youth with disabilities are treated more fairly and appropriately by the juvenile justice system. Table 8.1.2, for example, outlines a series of questions Osher et al. (2002) identified that can assist the courts in making better, more informed adjudication and disposition decisions concerning these youth. The courts should, for example, ensure that the youth can understand the charges brought against him or her. They also should ensure that a youth's IEP is taken into consideration when arranging services, and that all court practitioners, as well as the youth's parents, understand the youth's disability-related needs.

8.2 Principles of Effective Intervention

Table 8.2.1 identifies principles of effective delinquency intervention that have been culled from a range of sources. It must be emphasized that few studies of delinquency or predictors of juvenile justice system involvement focus explicitly on youth with disabilities, much less those from specific racial/ethnic populations or particular cultural backgrounds. For that reason, Table 8.2.1 draws primarily on delinquency research that has taken a broad-based, developmental view of delinquency. This literature typically views delinquency as an outcome linked to other negative behavioral outcomes, all of which may be more effectively addressed if each youth's individual constellation of risk and protective factors are addressed. The recommendations from this research largely dovetail with recommendations from the disability literature on preventing and more effectively helping individuals with disabilities.

As the table suggests, there are many principles that communities, schools, and justice systems can adopt to successfully improve the identification and delivery of services to youth with disabilities who are at risk of becoming involved with the juvenile justice system or are already involved in it. Integrated service delivery, for example, is critical, just as it is for youth with disabilities in general (National Council on Disability 2002b). When services are fragmented or disconnected, they are less likely to result in significant improvements to youth. Ideally, services should be comprehensive, addressing the full range of each youth's needs. For example, focusing on a youth's disability while neglecting the possibility that he or she may have a substance abuse problem is apt to be a less successful approach than one that addresses both sets of needs.

Assessment constitutes an especially critical issue. Recently, Rutherford et al. (2002:23) recommended adoption of reliable and validated assessment instruments throughout all phases of school and juvenile justice system involvement. Their review suggests, however, that few such instruments exist and that even the "best" instruments may have limited use in many settings. Nonetheless, assessment is critical to ensuring accurate identification of youth with disabilities, their specific needs, and how best to address these needs. This information is critical as well for early identification of youth who are eligible for special education services and for assisting with

the transition of youth from correctional settings to the community. These services can help prevent or reduce delinquency and other negative outcomes and increase the likelihood of positive outcomes.

Coordinated and well-organized efforts among community leaders and residents, schools, child welfare and social service agencies, and the juvenile justice system are reported to be critical for successful efforts to address the needs of youth with disabilities and specialized needs. No one system generally has sufficient resources to address these needs alone, and the juvenile justice system in particular has far less funding for and experience with the disability law and the needs of youth with disabilities.

Many times, jurisdictions may undertake initiatives without carefully monitoring implementation or impacts, even though these are critical to establishing any initiative's success. Particularly in contexts where resources are scarce, it is especially important to assess the capacity and resources of different agencies to avoid duplication of efforts and to ensure that youth with disabilities do not "slip between the cracks." Schools, for example, are well-suited to assist the juvenile justice system in determining whether a particular youth has a disability and what services are appropriate and available to address his or her disability-related needs.

As with the distribution of many societal "goods," provision of treatment and services to youth with disabilities may vary across racial/ethnic, tribal, and cultural populations, by social class, and by area. In aggregate, such distributions can generate unfair outcomes. They may produce favorable outcomes for certain populations (e.g., the children of parents with financial resources, or children from areas with greater social capital). But in so doing, they may result in limited access to services for many other youth with disabilities. Policy and program approaches that result in more equitable distributions of services can help avoid such situations.

In addition to the dimensions outlined in Table 8.2.1, a key feature of high-quality youth-serving programs is their adherence to youth development principles (Coalition for Juvenile Justice 2001; National Governors Association's Center for Best Practices 2001; Smith and Thomases 2001; Eccles and Gootman 2002). These include

- physical and psychological safety (e.g., safe facilities, modeling of safe ways to handle conflicts between youth)
- appropriate structure (e.g., limit-setting, clear rules, predictable expectations about program functioning)
- supportive relationships (e.g., warm and close relationships with adults and peers)
- opportunities to belong, including meaningful inclusion in social activities
- positive social norms (e.g., modeling of appropriate and positive attitudes and behaviors)
- support for efficacy (e.g., empowering youth, challenging environment, chances for leadership)
- opportunities for skill-building (e.g., learning about social, communication skills)
- integration with family, school, and especially community efforts.

As Table 8.2.1 emphasized, the best programs are culturally responsive and address the specific needs of children from various racial and ethnic groups and those with special needs (including students with learning or other disabilities that have not yet been identified). Youth who consistently face barriers and limited opportunities may develop special strengths that can enable them to succeed in life. Beauvais (2000:110) has observed, for example, that "resiliency and adaptation in the face of adversity have been the hallmarks of success among American Indians for most of their existence as a people." The resilience and adaptability of youth with disabilities likely constitute significant assets upon which effective capacity-based programs can build. However, the special needs of these youth remain the paramount concern, given the substantial impacts, such as limited educational advancement, their disabilities can have.

8.3 Prevention, Intervention, and Delinquency Management Strategies

This section describes specific examples of prevention, intervention, and delinquency management strategies that research suggests may be effective in promoting positive outcomes and reducing negative outcomes, including delinquency, for youth with disabilities at risk of delinquency or involved in the juvenile justice system. As emphasized earlier, we have relatively little research directly focusing on effective delinquency prevention programs for youth with disabilities, including youth with disabilities who come from diverse racial/ethnic and cultural backgrounds (Howell and Wolford 2002; Larson and Turner 2002). For this reason, this report has focused on general principles that can guide the development, implementation, and monitoring of effective programs and systems-based efforts focusing on these youth.

Only a small sample of programs are provided here for illustrative purposes and because other sources provide more extensive discussion of these and other programs. They are provided in part to emphasize the current lack of directly relevant information on youth with disabilities at risk of involvement in or already involved with the juvenile justice system. For example, Larson and Turner (2002) recently identified what they termed "best practices" in a monograph co-produced by the Center for Effective Collaboration and Practice and the National Center on Education, Disability, and Juvenile Justice (EDJJ), with support from the U.S. Department of Education and the U.S. Department of Justice. The authors noted that they "could find almost no research evaluations of interventions with court-involved youth with learning, attention, and behavioral disabilities" (Larson and Turner 2002:4). Consequently, they culled lessons from the more general delinquency prevention and intervention literature, as this report has done.

Larson and Turner (2002) identified several "model programs" for which some empirical evidence existed concerning their effectiveness with court-involved youth with disabilities. They found few such programs. Therefore, they expanded their criteria "to include programs that consisted of best practice components and which had some evaluation data even if only from 'in house' and with less than perfect controls" (p. 4). Their review resulted in a list of different types

of practices, including skills-based programs (e.g., counseling, vocational, academic, and life skills interventions), medical interventions (e.g., medication, substance abuse treatment), and efforts to include parents in identifying and addressing the needs of youth with disabilities. Though termed "best practices," the list, as noted, reflects primarily the application of general principles to guide the selection of specific programs.

Prevention

In Larson and Turner's (2002) review, the Achievement and Learning for All Students (ALAS) program was identified as a "best practice" (see Appendix D). It has been empirically evaluated and shown to have potentially positive impacts with youth with disabilities who have behavioral and academic problems. ALAS, a school-based prevention initiative, incorporates many elements that accord with the principles of effective intervention. A central feature of ALAS, for example, is the development of individualized intervention strategies and the collaboration of school-based counselors with community agencies. ALAS also focuses explicitly on incorporating and validating the racial/ethnic and cultural perspectives of youth and their parents.

Focusing explicitly on prevention, Tobin and Sprague (2000) recently identified a range of effective school-based practices for children with behavior disorders and/or antisocial behavior. From the standpoint of the juvenile justice system, these practices all represent prevention strategies since they all can serve to prevent youth with disabilities from coming in contact with the courts. To be included as an effective practice, each strategy had to (a) be applicable to students at risk for antisocial behavior and/or failure in the traditional classes, (b) be sufficiently practical to be implemented in local public schools, and (c) show convincing evidence of positive outcomes (Tobin and Sprague 2000).

Table 8.3.1 summarizes the practices identified by Tobin and Sprague (2000). These include having a low ratio of students to teachers, highly structured classrooms that employ behavioral classroom management techniques, a positive rather than a punitive approach to behavior management, adult mentors, individualized behavioral interventions based on functional behavioral assessments, social skills instruction, academic instruction, and parental involvement.

If one focuses on interventions based in schools not focused specifically on delinquency prevention, a large number of potential best practices emerge. Project ACHIEVE, for example, was designed as a school-based initiative aimed at improving student performance through positive behavioral support strategies (see Appendix D). Similarly, there are a wide range of early childhood intervention programs that may improve school performance and other areas of functioning for youth with disabilities (see the case study, Early Childhood Intervention Programs, in Appendix D). These impacts in turn may prevent or reduce delinquency and involvement in the juvenile justice system.

Intervention

As Larson and Turner (2002) have emphasized, there are few well-established and empirically tested programs targeting court-involved youth with disabilities. Such programs, whether aimed at early intervention (e.g., for first-time offenders) or later intervention (e.g., for repeat and more serious offenders), are critical to ensuring that youth with disabilities receive needed services and to prevent further delinquency. In the absence of research documenting the effectiveness of such programs for youth with disabilities, this section discusses several prominent types of programs that appear particularly promising. There are, for example, many justice system interventions that research suggests are effective in reducing delinquency and in promoting positive outcomes; these may also be effective with youth with disabilities (Wilson and Howell 1993; Coordinating Council on Juvenile Justice and Delinquency Prevention 1996; Sherman et al. 1997; Howell and Hawkins 1998; Lipsey and Wilson 1998; Lipsey 1999a, 1999b; Cullen and Gendreau 2000; Mendel 2000; Butts and Mears 2001; McCord et al. 2001).

An increasingly popular and well-examined intervention is multisystemic therapy (MST) (Henggeler et al. 1998) (see Appendix D). Part of the success of MST may stem from its reliance on many of the more general principles of effective intervention described earlier. For policymakers, a significant attraction of MST lies in its potential to serve as a cost-effective alternative to more costly approaches, such as incarceration in long-term custodial facilities.

Three of the in-depth case studies—Juvenile Assessment Centers (JACs), mental health courts, and wraparound programs such as Wraparound Milwaukee—provide additional examples of promising interventions that can serve to promote both early and later intervention to prevent or reduce delinquency and to ensure that the special needs of youth with disabilities are addressed (see Appendix D). Like MST interventions, JACs are increasingly popular but, unlike MST, remain largely untested. They hold considerable appeal and promise because of their emphasis on improved screening and assessment of youth, diversion to appropriate services, and the linking of diverse child-focused agencies, including schools, to develop and implement individualized approaches to addressing each youth's needs. Each of these dimensions has been identified as essential for addressing the needs of youth with disabilities (Leone et al. 2002).

Similarly, mental health courts, like other types of specialized courts (Butts and Harrell 1998), emphasize individualized processing of delinquents, generally minor offenders. They attempt to balance both quick and consistent sanctioning with treatment of each youth's needs. Created out of a dissatisfaction with traditional court processing, mental health courts hold considerable promise for youth with mental disabilities. Since these youth comprise a significant proportion of referrals to juvenile courts, they potentially can affect a large percentage of all delinquency cases in specific jurisdictions. If implemented as designed, these programs can result in improved management of mental disabilities, including conduct disorders, and the possibility of effectively and safely keeping youth in schools rather than placing them in secure confinement. At the same time, and as the case study emphasizes, some observers have raised legitimate concerns. They note, for example, that mental health courts may not be effective and can even result in increased criminalization and stigmatization of youth with disabilities (National Council on Disability 2002b).

Wraparound programs, such as Wraparound Milwaukee, build on many of the principles of effectiveness found in the literature, placing primary emphasis on the importance of collaborative and well-coordinated networks of services to ensure that all of a youth's particular needs are addressed. Wraparound Milwaukee, for example, relies heavily on the involvement of schools and child welfare, social service, and juvenile justice system representatives to develop and

implement treatment plans and to eliminate redundant efforts. As importantly, the program continuously monitors individual and program performance to identify problems and solve them before they escalate into issues that might undermine a youth's or the program's success. Like ALAS, the success of Wraparound Milwaukee is in part predicated on cultural competency; that is, the inclusion of the racial/ethnic and cultural perspectives of youth in determining how the program is administered and tailored to each youth's particular needs.

The fundamental difference between these types of efforts and the more typical "business as usual" juvenile justice system response lies in the adoption of principles of effective intervention that result in individualized treatment and services. It is precisely this theme that much of the literature on effective interventions with youth with disabilities in schools emphasizes is critical. For this reason, these programs, and others like them, may prove to be "best practices" for addressing the needs of youth with disabilities at risk of delinquency and thus involvement in the juvenile justice system.

Delinquency Management

Few programs within juvenile correctional settings focus exclusively on youth with disabilities, unless they are created as part of the constellation of educational services provided to all youth. Fewer still focus on these youth when they are released to communities. Most, such as the Farrell School in Oregon (see Appendix D), provide a range of vocational and academic services to youth in the hopes of reducing recidivism. These services typically are not designed for and do not have funding to provide individualized programming. In addition, participation in them generally involves reliance on screening and assessment processes that may not be well-suited for identifying youth with disabilities.

The more effective correctional-based programs emphasize principles of effective intervention and attempt to create a continuum of services that follow the youth back into the community and school. Each of the case study illustrations provide examples of approaches that implement these principles in ways that could be adapted to correctional settings (see Appendix D). JACs, for example, employ systematic screening and assessment approaches that collect information from

diverse sources. Correctional institutions can do the same, providing that they are committed to quality screening and assessment (Leone et al. 2002). In addition to the case studies, many of the sources discussed earlier provide numerous examples of corrections-based programs that may be effective for youth with disabilities, even though they may not explicitly focus on this population (Wilson and Howell 1993; Coordinating Council on Juvenile Justice and Delinquency Prevention 1996; Sherman et al. 1997; Howell and Hawkins 1998; Lipsey and Wilson 1998; Lipsey 1999a, 1999b; Cullen and Gendreau 2000; Mendel 2000; Butts and Mears 2001; McCord et al. 2001). Table 8.3.2 summarizes a recent list of recommendations identified by the Coalition for Juvenile Justice (2001) on how juvenile facilities can improve educational programming for youth with disabilities.

The transition of youth back into the community represents one of the most understudied yet critical opportunities to reinforce the impacts of corrections-based programs and to ensure the effective continuity of care and services for youth with disabilities (Altschuler et al. 1999; Altschuler and Armstrong 2001). For all youth, especially those with disabilities, the transition from correctional settings back into families, schools, and communities can be daunting. Families and friends may have changed or may be hostile, for example, and schools may indirectly or directly stigmatize them. Against this backdrop, a range of practices may serve to more effectively help youth with disabilities move from confinement to communities.

The transition, or reentry, practices summarized in Table 8.3.2 reflect many of the principles of effective intervention. They also require a clear and sustained commitment not only by the juvenile justice system, but many other systems and institutions as well, including schools, child welfare and social service agencies, families, and other community-based institutions. For example, the transfer of education records from correctional institutions to families and schools, and the use of these records to inform subsequent educational plans, is essential to a youth's educational progress. Yet without clear communication between these different institutions, records likely will be lost, misused, or unused. Similarly, efforts to find community-based sources for continuing substance abuse or mental health treatment require substantial collaboration between the juvenile justice system and schools and communities. The failure to

address the transition of youth with disabilities from correctional settings is likely to guarantee an unsuccessful reentry into schools and a likely return back into the juvenile justice system.

8.4 Enforcement of Federal Disability and Juvenile Justice Law

The impact and effectiveness of federal law depends largely on whether and how effectively it is implemented. Enforcement of disability laws has been a major focus of the disability community, and calls for changes to existing laws are often met with the counter that existing laws first should be enforced (Martin 2001). Proponents of better implementation focus on the need for greater commitment to and funding of programs that would fulfill the requirements established by disability laws. They also point to the need for better training of stakeholders from diverse systems, including education, child welfare, and juvenile justice. Proponents of modifying existing law point to the need for critical problem areas to be corrected, on the assumption that doing so may lead to greater and more effective compliance.

Both this report's review of the research literature and interviews with knowledgeable practitioners and researchers suggest, however, that there is little to no systematic empirical evidence available to assess the state of compliance by schools, and especially by the juvenile justice system, with federal disability law. Many sources suggest, for example, that compliance with IDEA is implemented unevenly across schools (Cagungun 2000; National Council on Disability 2000). The adequacy of implementation of IDEA in other settings, such as alternative education and juvenile justice, is largely unknown. Most reviews examine schools and largely ignore these other settings (Finn et al. 2001; American Youth Policy Forum and Center for Education Policy 2002; President's Commission on Excellence in Special Education 2002).

It should be emphasized, however, that the precise extent and nature of problems associated with the implementation and enforcement of disability law for the two populations examined in this report—youth with disabilities at risk of delinquency or involvement in the juvenile justice system and youth with disabilities already involved in the juvenile justice system—remain largely unknown. A review of the literature, for example, provides few sources systematically focusing on these youth. The National Council on Disability's (2000) comprehensive report on IDEA, for

example, focuses generally on youth with disabilities, not these specific sub-populations. A notable exception is a recent report by the Center for Effective Collaboration and Practice (CEPP), *Addressing Invisible Barriers: Improving Outcomes for Youth with Disabilities in the Juvenile Justice System* (Osher et al. 2002). The report identifies many issues involved in implementing disability law for youth with disabilities in the juvenile justice system, such as the difficulty of obtaining appropriate assessments of youth with disabilities and integrating their IEPs with justice system sanctions.

These and other specific issues identified in the CEPP report are listed in Appendix A. Also included in Appendix A are summaries of other issues—such as the difficulty of promoting greater cooperation among schools and juvenile justice systems—identified in the literature or by individuals interviewed for this report and that bear directly on implementing federal disability law. These sources, and the various summaries, are primarily of use in portraying a general sense of the range of issues and problems involved in implementing and enforcing federal disability law, such as IDEA. They do not systematically or empirically document the prevalence of problems specific to at-risk youth or youth already in the juvenile justice system. For example, under IDEA, the parents of incarcerated youth with disabilities should be included in the IEP process, just as they should be in non-incarcerative, school-based settings (Burrell and Warboys 2002). It is likely that parents of incarcerated youth typically are much less likely to be (or become) involved because correctional facilities may be placed in locations that create logistical problems for parents. How prevalent or persistent this problem is remains, again, unknown. As a general rule, however, it would appear safe to say that any issue identified for youth with disabilities in schools (see, e.g., National Council on Disability 2000) would be considerably greater for youth with disabilities in the juvenile justice system. This is because, as noted in previous sections, the latter system has less experience with and less of a focus on addressing disability-related needs and rights.

Numerous sources identify legal cases in different court systems (e.g., local, state, federal), cases that collectively help contribute to defining what the law "is." But such information provides relatively little information about the true extent of compliance with federal law. Moreover, this

report's review failed to uncover any rigorous empirical studies documenting the success of various legal cases, or other attempts to enforce federal law, in changing school or justice system practices. The fact of hundreds of legal cases itself, for example, reveals little about the precise extent to which schools or juvenile correctional facilities have implemented IDEA or how the implementation of IDEA changed subsequent to initiation or successful prosecution of legal cases.

Research to date suggests broad consensus that there is considerable legal activity under way to try to rectify various problems associated with implementation and enforcement of IDEA. At the same time, the absence of empirical research about the full extent of implementation or the impact of enforcement efforts makes it impossible to state with any certainty what types of enforcement efforts might be needed or how best to promote them. For example, empirical research in other areas of federal law suggests that greater enforcement does not always lead to improved community or state-level outcomes, though there may well be improvements in particular cases. In addition, creation of additional rules and procedures can actually undermine achievement of intended goals. Research on sentencing laws provides a useful example: attempts to legislate away judicial discretion, in the hopes of reducing racial/ethnic disparities in sentencing, frequently results in a shifting of discretion to prosecutors rather than the elimination of it (Forer 1994; Morris 1994; Sampson and Lauritsen 1997; Mears 1998b). In the absence of more and better research, it will remain difficult to know whether greater enforcement is needed and if traditional approaches to enforcement (e.g., use of the courts) are the most effective approach to changing implementation practices.

It should be recognized that progress in advancing the civil rights of people with disabilities has been secured largely through federal legislation and court battles. As a matter of law, implementation of existing disability laws is required. Yet, the failure of many schools to fully comply with IDEA—as it has been interpreted by the courts—suggests the possibility that the law as written or as funded cannot be fully implemented, even were one to assume a concerted willingness and effort to do so. Studies are needed to examine the extent to which IDEA can be implemented by juvenile justice systems in local jurisdictions and among states. Coinciding with

such studies should be ones that examine the full range of strategies for improving implementation, including supplementary federal funding, professional training, technical assistance, sanctions, and public awareness campaigns. Additional studies should examine if the goals of IDEA can be met more readily and effectively through other policies or approaches.

9. Implementation of Disability Law and Programs: Barriers and Facilitators

This chapter summarizes and discusses the barriers and facilitators to implementing laws and effective programs that focus on children and youth with disabilities at risk of entering or already involved in the juvenile justice system.

9.1 Implementation of Federal Law and Programs: General Issues

Many challenges confront those who wish to improve the implementation of federal laws and effective programs targeting youth with disabilities at risk of delinquency and involvement in the juvenile justice system. Foremost of these challenges is the fact that IDEA by law must be fully implemented in both schools and juvenile justice settings. Much of the available research literature suggests strongly that full implementation is not currently feasible within most juvenile justice systems. Major barriers to full implementation are discussed below, but some of the critical ones include: a lack of sustained and comprehensive commitment among legislators, schools, and juvenile justice systems to implementing IDEA; the lack of cooperation among schools, the juvenile justice system, and other child-serving agencies; a lack of awareness among juvenile justice system practitioners about disabilities and the legal rights of youth with disabilities; and the lack of sufficient funding. Without better data on the prevalence of youth with disabilities in the juvenile justice system (at all stages and not only corrections), and without better information on the extent to which there is a needs/services gap, it will remain impossible to quantify what precisely "sufficient funding" would be.

Effective interventions (including prevention initiatives) are only useful if they are implemented, and if they are implemented appropriately. Both issues present important challenges that, if not directly confronted, can significantly undermine the extent to which the needs of children and youth with disabilities are addressed. Yet, with respect to funding programs that "work," current research provides little guidance specifically focusing on youth with disabilities in or at risk of entering the juvenile justice system (Howell and Wolford 2002; Larson and Turner 2002). By

extension, therefore, there exists little knowledge about the implementation of such programs. Instead, one must rely on more general literature focused on program implementation in juvenile justice settings, and on research and anecdotal accounts about why there is not more and better prevention, intervention, and delinquency management programming for these youth.

With these caveats noted, the subsequent discussion focuses on implementation of federal law and effective or promising programs that either target youth with disabilities at risk of delinquency, or that have been created for non-disabled populations but that nonetheless may work well with youth with disabilities in the juvenile justice system.

9.2 Barriers and Facilitators to Implementing Laws and Effective Interventions

Perhaps the single biggest barrier to implementation of federal disability law and effective interventions in the juvenile justice system is the social control focus of this system. Eggleston (1996:199) has observed that "the agencies that adjudicate and incarcerate are not educational entities. Their purpose is the determination of guilt and innocence and the provision of security and custody." Others have argued that the very conception of the juvenile justice system as both a child-focused and punishment-oriented institution is flawed (Feld 1999). The impacts of this flaw include, in some observers' views, a disproportionate focus on punishment during "get tough" periods in U.S. history (Bernard 1992). The past two decades have witnessed an increasing trend in juvenile justice toward emphasizing punishment (Snyder and Sickmund 1999). This period of time perhaps coincidentally corresponds to one in which there has been a lack of aggressive enforcement of the IDEA legislation (Heumann 1996). Whether coincidental or not, the result appears to be a lack of social and political commitment to serving youth with disabilities who are in the juvenile justice system, and, by extension, those who are likely to enter it.

To the extent that this barrier exists, it contributes to and likely aggravates many other barriers to the juvenile justice system adequately serving youth with disabilities, including those at risk of referral to juvenile courts. For example, if juvenile justice officials and practitioners made this population of youth a priority or understood both the legal requirements to serve them and the

benefits of doing so (e.g., improved compliance with conditions of probation or correctional rules and policies, as well as reduced recidivism), they presumably would advocate for appropriate programs. To date, however, there is little evidence of juvenile justice systems across the country undertaking such an effort. Indeed, most research to date suggests that practitioners have a marginal understanding of federal disability law, the special needs of youth with disabilities, or effective ways to provide services (Smith et al. 2002). There is also little evidence that youth with disabilities receive adequate defense representation that takes account of their specific needs and potential vulnerabilities in what remains a fundamentally adversarial process (Peikin 2000).

The juvenile justice system is but one part of a broader set of systems focused on children and youth. Other systems include education, child welfare, social services, and a panoply of local, state, and national programs and laws that provide a range of rights and services. From this perspective, any failings of the juvenile justice system might more appropriately be viewed as a lack of societal commitment to serving youth with disabilities, especially those who are delinquent and involved in the juvenile justice system. The result of this lack of commitment can be seen, many reviews and commentators have suggested (e.g., Smith et al. 2002), in the lack of communication, cooperation, and collaboration across the different systems. It also can be seen in the lack of sufficient funding to support appropriate programs and services for disability-related needs among youth in schools and the juvenile justice system.

Among juvenile justice systems, many factors may make it difficult to provide appropriate services to youth with disabilities. Practitioner awareness is critical, but so, too, is training in how to implement disability-related programs as they were designed or in a way that is most effective for youth with specific types of disabilities. When program design does not match program implementation, the likelihood of significantly improved outcomes declines (Rossi et al. 1999). There may be many other reasons why programs are poorly implemented, including a reliance on inexperienced staff and a failure to monitor program operations. In many instances, the quality of implementation may depend on having a continuum of services (e.g., screening and assessment) that help contribute to appropriate program matching and operations (Pasternack et al. 1988). Such services themselves may be difficult to provide or require additional resources.

For example, screening and assessment for learning disabilities can be costly, and ensuring that previous assessments and records follow youth through all stages of processing can be challenging (Eggleston 1996). Also, youth with disabilities may have particular needs that affect their ability to participate in programs, including special education programs. These needs may affect how they are treated and can in turn affect program completion (Carran et al. 1996). It is likely, too, that many school, court, and correctional systems adhere to ineffective programs and policies in the belief that these programs "work" (Cullen and Gendreau 2000).

9.3 Specific Barriers and Facilitators

The review conducted for this report identified many sources of information on specific barriers and facilitators to effectively addressing the needs of youth with disabilities entering or in the juvenile justice system. Table 9.2.1, drawn from Smith et al. (2002), provides one of the more comprehensive and research-based lists currently available. As the table indicates, barriers exist in schools, the juvenile justice system, families, and communities, and can include a spectrum of different dimensions. For example, Smith et al. (2002) have identified that the general public, as well as juvenile justice practitioners, have little understanding about cognitive disabilities and how these may affect a youth's behavior. They also have identified that within the juvenile justice system, different factors affect the implementation of disability law and effective programs. Most intake units and correctional facilities, for example, fail to use systematic and appropriate screening and assessment instruments, and those that do frequently may not use the resulting information appropriately. Many communities lack sufficient mental health and other resources necessary to address the full range of needs, such as substance abuse problems, that youth with disabilities may have. And families may feel daunted by a system that may remove their children from the home or that has established hurdles that make it difficult to ensure that their children receive appropriate services.

Another recent report, *Abandoned in the Back Row: New Lessons in Education and Delinquency Prevention*, issued by the Coalition for Juvenile Justice (2001), has identified a range of barriers specific to juvenile correctional settings. These barriers include

- frequent transitions of youth from one unit or facility to another
- a lack of training and certification of juvenile justice personnel to work with youth with specific disabilities
- facilities that are in need of repair or technological advances or expansions
- difficulties transferring and maintaining school credit toward graduation
- ignoring gaps in many youths' education
- limited recognition of how disabilities may affect behavior and treatment and how best to maintain security
- conflicts between correctional and educational staff
- concerns regarding the costs of operation versus programming
- overcrowding in facilities
- lack of collaboration between public school system and the facility
- lack of aftercare.

Individuals interviewed for this report identified additional barriers, some of which overlap with those identified by Smith et al. (2002), the Coalition for Juvenile Justice (2001), Cagungun (2000), and others (see Table 9.3.1). As with several recent reports (e.g., Finn et al. 2001), these individuals emphasized systems-level barriers as well as a trend toward schools "dumping" youth with disabilities into alternative education programs and the juvenile justice system. Shum (2001) has argued, for example, that schools have been able to use the "socially maladjusted" exception to the SED classification under IDEA to avoid providing special education services to youth with disabilities and investigating whether a particular youth's behavior is a manifestation of a disability. The different sources have also identified tensions involved in sharing information between systems, noting both the advantages and the potential disadvantages of doing so. Many other barriers to effective implementation of federal law and effective programs may be

important, but have yet to be systematically documented for the range of laws and interventions that focus on children and youth with disabilities.

There also may be many factors that help facilitate effective program and policy implementation. For example, Pasternack et al. (1988) documented strategies used by the state of New Mexico to effectively establish a continuum of educational services in correctional settings. More recently, Puritz and Scali (1998) documented strategies by which disability laws can be used to improve the conditions of confinement among youth with disabilities.

Many of the barriers typically identified in the literature can constitute facilitators to effective implementation as well. For example, a failure between schools and the courts to communicate with one another can reduce the likelihood that youth with disabilities are identified. Conversely, when communication is consistent and well-established, the likelihood increases dramatically that the courts will know which court referrals have a disability.

Ultimately, a comprehensive strategy will likely be needed. This strategy will need to address the diverse range of barriers that exist. It will also need to capitalize on factors that may facilitate effective implementation of federal disability law and disability-focused programs. Without a comprehensive approach, any one barrier may prove to be sufficient to significantly inhibit the provision of services to youth with disabilities in the juvenile justice system or at risk of entering it.

10. Recommendations for "Next Steps"

This chapter outlines a series of recommendations, or "next steps," for policymakers, practitioners, advocates, and researchers. The recommendations focus on several specific areas and involve

- enforcement of existing federal disability laws;
- development of promising programs and policies; and
- addressing critical data and research needs.

These recommendations reflect many of the major themes identified in the research review and interviews conducted for this report. More importantly, they speak directly to critical issues currently being debated nationally.

10.1 Enforcement of Existing Federal Disability Laws

Reviews of research on children and youth with disabilities reveal that federal disability law is not being implemented as intended throughout the nation's schools. Similar reviews suggest the problems within the juvenile justice system are even greater. For example, many of these problems concern poor implementation of the many provisions within IDEA. The variety and complexity of the problems affecting implementation of IDEA suggest that stricter enforcement would be beneficial. When noncompliance stems from a lack of understanding and commitment to the needs and rights of children with disabilities, enforcement clearly has the potential to raise awareness and stimulate greater commitment among schools and communities. In this regard, the effectiveness of enforcement efforts likely would be enhanced if coupled with increased and improved technical assistance and informational campaigns about model policies and approaches that can be adopted by local jurisdictions.

IDEA is not the only relevant federal disability law when focusing on the rights of children with disabilities who are at risk of involvement in or are already in the juvenile justice system. Section 504, CRIPA, and the ADA are all increasingly being used by advocates, school districts, and child-serving agencies to improve the lives of children with disabilities in schools as well as juvenile justice settings. Awareness, knowledge, and use of these laws appear to be increasing. However, there currently is insufficient empirical knowledge to state with any degree of precision or confidence what their impacts have been on the youth with disabilities who may enter or are involved with the juvenile justice system. Certainly, the evidence suggests that in specific instances, there may be improvements that result from enforcing or applying these laws. But whether and how enforcement results in system-wide changes remains largely unknown. As a result, policymakers currently lack the empirical foundation to know how best to achieve the goal of providing effective and appropriate services specifically to youth with disabilities who are at risk of delinquency or involvement in the juvenile justice system or are already in the juvenile justice system

Sound legislation, clear regulatory guidance, and adequate resources for implementation, monitoring, and enforcement can be critical. However, they cannot guarantee the development of a coordinated community-wide system of youth-serving programs that promote youth development principles and that serve all children, including those with disabilities and those involved in the juvenile justice system. Such efforts typically require additional factors to be present, including the commitment and willingness of diverse individuals, agencies, and communities to serve this population. Thus, any comprehensive effort to increase and improve services for youth with disabilities must focus both on laws and the factors that affect implementation of both the spirit and letter of these laws.

NCD recommends, therefore, that the Federal Government should

> Enforce existing federal disability laws to ensure that youth in schools and in the juvenile justice system receive the services to which they are legally entitled. Have federal monitors enforce laws and cite states for lack of compliance. At present, there reportedly are not nearly enough people providing oversight and monitoring of federal laws in

districts and states, especially with respect to the issue of discipline. Too many youth are being disciplined and expelled inappropriately.

10.2 Development of Promising Programs and Policies

The individuals interviewed for this report made many recommendations (see Table 10.2.1), and emphasized a number of them as priorities. They placed stronger emphasis, for example, on the need to raise policymaker, practitioner, and public awareness about youth with disabilities. According to these individuals, campaigns to raise awareness should focus on the civil rights of youth with disabilities, specific disability laws that provide both for rights of and services to these youth, current gaps in schools and the juvenile justice system in providing disability-related services, and specific steps that can be taken to increase and improve these services.

They also emphasized the need for a single federal agency or advocacy organization whose sole focus is to ensure that the rights and needs of youth with disabilities entering or in the juvenile justice system are addressed. The Coordinating Council on Juvenile Justice and Delinquency Prevention, for example, focuses broadly on a range of youth populations, and to date has not systematically guided research or programming efforts for this population of youth. As a result of this situation, several individuals interviewed for this report suggested the need for a national commission, one composed of representatives from the Departments of Education, Justice, Health and Human Services, and other relevant agencies, as well as experts on disability and juvenile justice law and programming. A national commission, they noted, might bring together a necessary level of commitment and expertise to help forge a coherent plan for addressing the needs of youth with disabilities in the juvenile justice system and to monitor implementation of this plan. The President's Task Force on disadvantaged youth (Bush 2002) might serve as a particularly strategic vehicle through which to identify how a commission could improve the coordination and funding of efforts to serve youth with disabilities.

Finally, as the earlier chapters established, there currently is little consistent and empirically based knowledge about best or promising practices specifically for youth with disabilities at risk of entering or already involved in the juvenile justice system. For this reason, this report provides

no specific recommendations about particular programs that should be funded or promoted. However, research on youth with disabilities and on delinquency programs, respectively, provides suggestive evidence about what might work best for these youth. Given the potential for the types of programs and principles identified in this research, a strategic approach would be to fund or promote a diverse range of recommended programs that span the entire juvenile justice system and include prevention efforts in schools and communities. This approach ideally would be coupled with a systematic research agenda that can be used to assess the impacts of specific approaches. Greater effort and resources then can be focused on the programs that have been shown to be effective.

NCD recommends, therefore, that the Federal Government should

- Establish delinquency prevention and early intervention as a fundamental priority of the nation's public schools system. To the extent youth with disabilities are not having their needs adequately addressed in schools, they will be more likely to act out, be tracked into under-funded programs, and eventually land in the juvenile justice system.
- Educate the public, practitioners, and policymakers about disabilities among youth and their civil rights, which apply to youth in the juvenile justice system as well as in schools.
- Provide more professional development of staff in the educational and juvenile justice systems about the needs and rights of youth with disabilities.
- Provide necessary resources for youth with disabilities at all phases of the education and juvenile justice systems, including reentry into communities and schools from secure custodial settings.
- Ensure effective communication between schools and the juvenile justice system during the transition of youth with disabilities into and out of the justice system.
- Ensure that programs and policies systematically emphasize support prevention, early intervention, and intervention practices, as well as the coordination of services among different agencies, such as education, juvenile justice, child welfare, and social services.

- Create a national commission responsible for coordinating and guiding the efforts of different federal agencies. This commission should ensure the development of a coherent research and programming/policy approach to addressing the needs of youth with disabilities in the juvenile justice system.

10.3 Addressing Critical Data and Research Needs

The most consistent theme emerging from this report's review and discussions with individuals is the lack of reliable, accurate, empirically based data on almost every dimension relevant to increasing and improving services for youth with disabilities at risk of entering the juvenile justice system or already involved in it (Cramer and Ellis 1996; Robinson and Rapport 1999; U.S. Department of Education 2001; Larson and Turner 2002; Leone et al. 2002). Research is needed that can illuminate the "black box" of the possible relationships between disability, delinquency, and juvenile justice. This section identifies some of the most critical research issues that should be addressed to increase and improve implementation of disability law and programs for youth with disabilities. Many of these dovetail with the more prominent research issues identified by individuals interviewed for this report (see Table 10.3.1).

Focusing on schools, which serve as one of the primary conduits to the juvenile justice system, little is known about what factors contribute to youth with disabilities being referred to juvenile courts. Similarly, little is known about what schools currently are doing, and what ideally they should be doing, to prevent youth with disabilities from engaging in behaviors that lead to juvenile court referrals. For developing effective policies, it is not enough to be able to point to specific instances in which schools may have failed or succeeded. Rather, any attempt to improve policies and programs must have systematic, empirical information within and across jurisdictions about current practices and their impacts.

Within the juvenile justice system, there is even more of a black box. We know little about the prevalence of various types of disabilities or the needs/services gap across all parts of the juvenile justice system. Current research provides little foothold for understanding how law enforcement agencies and the courts perceive and process youth with disabilities. Do they

understand how disabilities may affect youth behavior, or that certain disability-related needs must (by law) and should (as a matter of effective practice) be addressed? How do law enforcement, court, and other justice system practitioner practices affect how youth with disabilities behave, both while in custody and upon release? What are the conditions necessary for efficient and effective sharing of information across agencies to occur without at the same time compromising the rights of juveniles? These and a range of related questions about almost all aspects of the juvenile justice system remain largely unaddressed.

NCD recommends, therefore, that the Federal Government should

- Undertake a comprehensive research initiative on all relevant dimensions bearing on youth with disabilities in the juvenile justice system. Better data are needed on a range of issues. Few jurisdictions or states systematically document the prevalence of youth with disabilities in their juvenile justice systems, the services provided, the impacts of these services, etc.

- Assess the prevalence of disabilities among youth at all stages of the juvenile justice system, including intake, probation, detention, corrections, and parole. (The Office of Juvenile Justice and Delinquency Prevention currently is conducting prevalence studies of juvenile detention and corrections. These studies will provide a foothold on estimating the numbers of youth with disabilities in the juvenile justice system.) Identify the extent of services and the demand/service gap.

- Assess the validity of assessment procedures and instruments in the juvenile justice system. Improve the appropriate use of assessments, realizing that "assessment" means different things and serves different purposes both in various departments within schools and across various stages of the juvenile justice system.

- Examine the extent to which the sharing of education, as well as non-education, information occurs between schools and the juvenile justice system. Study how exactly this information is used by prosecutors, judges, probation officers, and other justice

practitioners to make better (or worse) decisions regarding the treatment of and services for youth with disabilities.

- Identify current levels of and effective information-sharing processes, communication, and collaboration within and among juvenile justice, education, child welfare, and social service agencies.

- Systematically identify and study the unintended impacts associated with efforts such as full funding and implementation of IDEA. Explore, for example, the magnitude of misdiagnosis and overdiagnosis of youth, especially minority youth, as having disabilities when they do not. Under full funding and implementation of IDEA, it is possible that these patterns might become worse, not better.

- Identify programs and interventions that work specifically with youth with disabilities in juvenile justice settings. For example, what literacy models are most effective in correctional facilities? What is the best way to address co-morbidity (i.e., situations in which youth with disabilities suffer from additional problems, such as drug abuse)? (OJJDP currently is compiling a list of promising practices for working with youths with disabilities in the juvenile justice system.) Identify cost-effective programs and policies for all stages of juvenile justice (e.g., prevention, screening and assessment, diversion, sentencing, placement, detention and corrections, probation and parole). At the same time, conduct process evaluations documenting how most effectively to implement programs and policies that "work" or that are "promising."

- Identify how many youth with disabilities are transferred to the criminal (adult) justice system and in the federal justice system. Identify what their disabilities are, how these disabilities are addressed, and whether there are financial disincentives to identify and address disabilities at different stages of the adult and federal justice systems.

11. Conclusion

This report has provided a broad-based overview of many issues bearing on youth with disabilities who are in or may enter the juvenile justice system. Topics ranged from an examination of the history and philosophy of federal disability law and juvenile justice to barriers to implementing federal law and effective programs. They included the prevalence of youth with disabilities in the juvenile justice system and types and levels of disability-related programs and practices. In covering these and other topics, the report drew on a range of sources, including empirical research, reviews, and interviews with individuals from a diverse range of backgrounds, expertise, and experiences.

The extensive literature to date focuses primarily on specific, delimited issues. By contrast, the present report has aimed to provide policymakers and others with a broad-based foundation on which to place into context policy issues and research gaps—in short, to provide a portrait of the "forest" rather than a detailed description of every "tree." The benefit of this approach lies in the ability to highlight the many, and sometimes competing, issues that policymakers must address if they are to develop balanced approaches to addressing the needs of youth with disabilities. In all instances, the focus has been on what empirical research, as opposed to anecdotal evidence, does or does not say.

Although the Executive Summary provides a distillation of the main findings from this report, it bears emphasizing that perhaps the most important conclusion concerns the lack of systematic, comprehensive empirical research. This gap exists in multiple domains. There currently is little reliable data about the needs/services gap of youth with disabilities entering or already in the juvenile justice system. Even less is known about the vast majority of youth with disabilities throughout the justice system, both juvenile and adult, especially if one excludes the small percentage of youth in correctional facilities. The current lack of research on effective justice-based programs for youth with disabilities means that policymakers must draw on other research that may or may not be relevant to a justice system context.

Finally, there is a nominal research foundation on which to assess the feasibility of fully implementing federal disability law in the juvenile justice system. The review suggests, however, that in most state juvenile justice systems treatment and the delivery of services on an individualized basis constitute a secondary priority to punishment and social control. It also suggests that the available resources in most justice systems barely allow the needs of any youth, especially those with disabilities, to be appropriately and effectively addressed. Until such gaps are addressed, it remains unlikely that the rights and needs of youth with disabilities in the juvenile justice system, including those at risk of entering it, will be effectively addressed.

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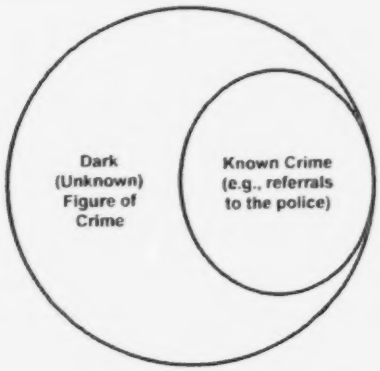
Appendix A. Figures and Tables

Figure 4.2.1. The Dark (Unknown) Figure of Crime vs. Known Crime



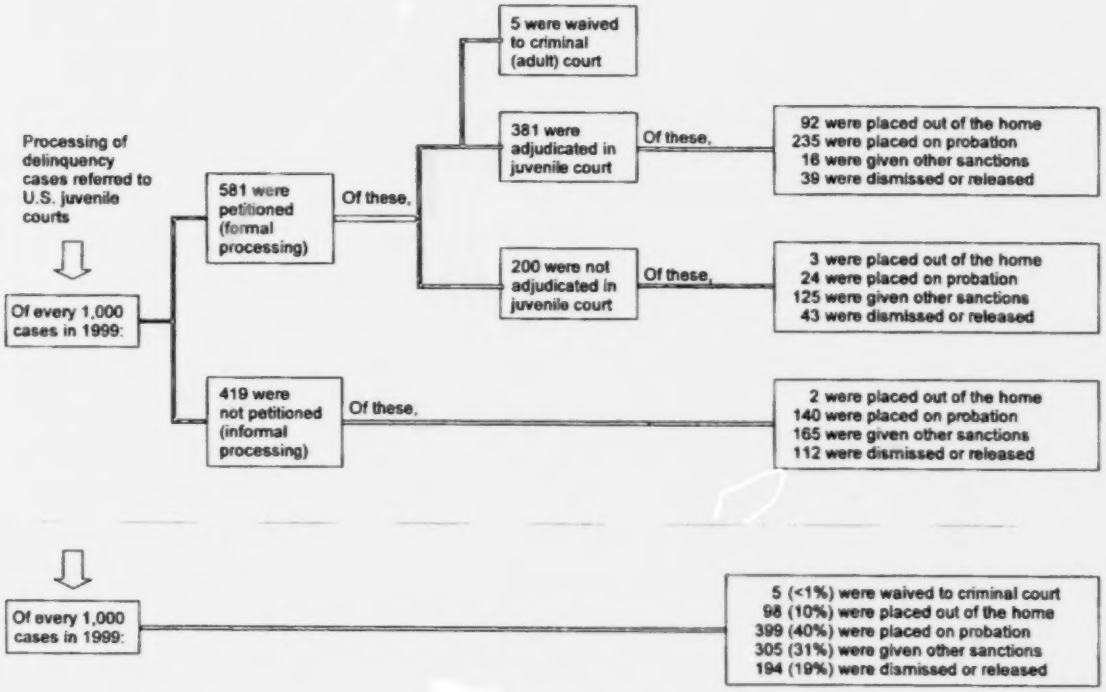
Of all crime committed by youth or adults, only a fraction comes to the attention of law enforcement agencies. The unknown fraction of crime is called the "dark figure of crime."

Comparison of 1991 data from the National Crime Victimization Survey, a national survey of households, and the Uniform Crime Report, which compiles information from law enforcement agencies, demonstrates that the dark figure of crime varies across offenses, with some crimes more likely to become known to the police than others.

Residential burglary	*36% of all residential burglaries were reported to the police*
Personal robbery	*39% of all personal robberies were reported to the police*
Rape	*62% of all rapes were reported to the police*
Motor vehicle theft	*78% of all motor vehicle thefts were reported to the police*
Aggravated assault	*80% of all aggravated assaults were reported to the police*

Source: O'Brien (1995).

Figure 4.2.2. Processing of 1.7 Million Delinquency Cases, U.S. Juvenile Courts, 1999


Processing of delinquency cases referred to U.S. juvenile courts
Of every 1,000 cases in 1999:
581 were petitioned (formal processing)
Of these,
5 were waived to criminal (adult) court
381 were adjudicated in juvenile court
Of these,
92 were placed out of the home
235 were placed on probation
16 were given other sanctions
39 were dismissed or released
200 were not adjudicated in juvenile court
Of these,
3 were placed out of the home
24 were placed on probation
125 were given other sanctions
43 were dismissed or released
419 were not petitioned (informal processing)
Of these,
2 were placed out of the home
140 were placed on probation
165 were given other sanctions
112 were dismissed or released
Of every 1,000 cases in 1999:
5 (<1%) were waived to criminal court
98 (10%) were placed out of the home
399 (40%) were placed on probation
305 (31%) were given other sanctions
194 (19%) were dismissed or released

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- *Two of every three delinquency cases processed by U.S. juvenile justice courts in 1999 were handled informally (not petitioned) or, if handled formally, not adjudicated*

- *One-fifth of delinquency cases in 1999 resulted in dismissal or release, down from 34 percent in 1997.*

- *Processing varies across different age and racial/ethnic groups, as well as by offense. In 1999, 55 percent of white youth referred for processing were handled formally, compared with 66 percent of black youth. In cases involving drug offenses, 55 percent of white youth were formally processed, compared with 80 percent of black youth.*

Sources: Sickmund (2000); Stahl et al. (2002).

Notes: In 1999, 1,683,491 delinquency cases were filed in U.S. juvenile courts. Data may not add to 1,000 because of rounding. Petitions generally are filed for more serious cases and are a request for the court to hold an adjudicatory or waiver hearing. "Other sanctions" can include community service, victim restitution, and other similar alternatives to probation.

Figure 4.2.3. From Communities to the Justice System and Back: Opportunities to Intervene and Provide Needed Services to Youth with Disabilities

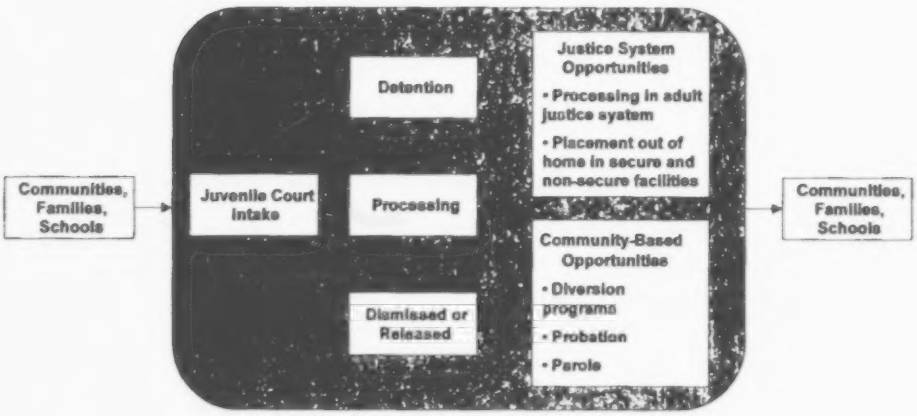

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Table 6.3.1. Racial/Ethnic Overrepresentation of Students in Special Education

- African-American students tend to be overrepresented in classrooms for students with mild disabilities and emotional and behavioral disabilities.
- Almost 75 percent of diagnoses of mild mental retardation are linked to various socioeconomic-related environmental contingencies. Poor children are more likely than wealthier children to receive special education.
- Although African Americans represent 16 percent of elementary and secondary enrollments, they constitute 21 percent of total enrollments in special education.
- Poor African-American children are 2.3 times more likely to be identified by their teacher as having mental retardation than their white counterparts.
- The population of Native American children who receive special education services is one-and-one-half times greater at 16.8 percent vs. 11 percent for the general population.
- African Americans, especially males, who engage in certain behaviors that represent artifacts of their culture—such as language (Ebonics), movement patterns (verve), and a certain "ethnic" appearance—have been found to be overreferred for special education placement.
- Although Latino students are often not overrepresented in state and national data, they are likely to be overrepresented in special education when their proportion of a district's diverse student body increases.
- Children from culturally diverse backgrounds needing special education support often receive low-quality services and watered-down curricula.

- Poverty and other socioeconomic factors affect the incidence of disability among all ethnic groups and across all disabilities. Even with socioeconomic factors considered, race and ethnicity remain significant factors in placing children in special education.
- Large urban programs are far more likely to have higher percentages of minority and poor children in special education than rural programs.
- The larger the educational program, the larger the disproportion of minority students in special education.
- The larger the number of minority students in a school district, the greater the representation of minority students in special education.
- Asian Pacific students are generally underrepresented in disability categories and overrepresented in gifted and talented programs.
- White students are consistently overrepresented in gifted and talented programs and specific learning disability categories.

Source: Meyer and Patton (2001) drawing on studies published between 1982 and 2001.

Table 8.1.1. Juvenile Justice and Disability Law: Recommended Approaches to Processing and Addressing the Needs of Youth with Disabilities

J.J. Stages	Applicability of Disability Law and Recommended Approaches
Processing	• Schools are required to comply with Individuals with Disabilities Education Act (IDEA) procedural requirements when youth are in the juvenile justice system to ensure that youth receive a free and appropriate public education (FAPE). Local education agencies (LEAs) must assist with fulfillment of IDEA in the juvenile justice system.
Intake and Initial Interviews	• Juvenile justice professionals should be alert to identified or undiscovered disabilities among youth. When schools refer youth with disabilities to court, federal law requires that special education records be transferred, except under certain constraints, such as a lack of written parental permission, established under the Family Educational Rights and Privacy Act (FERPA).
Diversion and Services	• "IDEA amendments require thorough scrutiny of behavioral needs and implementation of appropriate interventions that may far exceed what most juvenile courts are able to provide" (Burrell and Warboys 2000:8). Thus, diversion and delay of processing should be explored. • Court officers should investigate whether school-based special education could result in appropriate services, or whether other interventions could vitiate the need for court processing. • Youth with disabilities may have special needs that if unaddressed may result in misbehavior and subsequent incarceration.
Detention	• Youth with disabilities are more likely to be detained, which may be attributable to disability-related behavioral problems during intake and

detention hearings. Practitioners should be sensitized to this possibility to minimize unnecessary detention of youth with disabilities.

- These youth should be diverted or released from detention to avoid disruption of Individual Education Plans (IEPs) if adjustments to IEPs or supervision can reduce disruptive behavior.

Disposition, Including Waiver to Adult Court

- The extent and nature of a disability should be documented to assist with determining evidentiary issues, such as insanity, incompetence, intent, and the admissibility of confessions.
- The presence of a disability may affect the success of a youth in any dispositional outcome. Special education needs should be addressed, by law and because doing so may help reduce problem behaviors while under court supervision. Placements outside of the home must include provisions to ensure adherence to IDEA and fulfillment of the IEP.
- Prosecutors and judges should be apprised of a youth's disability to assess whether IEP and related services can be provided better in the juvenile justice system, and to assess whether certain waiver criteria, such as criminal sophistication, may reduce a youth's culpability.

Incarceration in Institutional Settings and Transitions Back into Communities

- "The provisions of IDEA cover all State and local juvenile and criminal adult corrections facilities" (Burrell and Warboys 2000:10). Court and administrative decisions have applied IDEA to detention and training schools, jails, and prisons.
- Identification of youth with disabilities should be promoted through shared school records and reliance on quality evaluation processes. LEAs should assist with identification in situations where short-term facilities have insufficient resources to conduct eligibility evaluations.
- Youth with disabilities must be served and educated with non-disabled youth unless the youth's disabilities and IEPs cannot be addressed.

- Incarcerated youth have due process protections under IDEA that must be observed. Per IDEA, positive behavioral interventions should be integrated with institutional plans, and parents must be included in the IEP process unless a court specifies otherwise.
- Eligibility for IDEA services, transitional and interim services and implementation of IDEA, and continuity of IEPs before, during, and after incarceration should be facilitated by schools, LEAs, and the juvenile justice system. IEPs must be provided during lockdowns.
- In general, youth under age 22 in adult prisons are entitled to FAPE.

Source: Adapted from Burrell and Warboys (2000); Osher et al. (2002).

Table 8.1.2. Critical Questions to Address in Appropriately and Effectively Processing Youth with Disabilities in the Juvenile Justice System

To make adjudication and placement decisions, a judge, public defender, dispositional advisor, probation officer, and/or other corrections staff need to consider the following information about disability characteristics and effective approaches when choosing appropriate settings.

- Is there a possibility that, because of a disability, this youth does not understand the charges?
- Has the youth received appropriate services at his or her previous school placement? Is there a current IEP? Is the IEP being implemented as written?
- Are the needs addressed in the youth's IEP considered and integrated into the consequences determined by the court?
- Is an updated or more comprehensive disability or mental health evaluation needed?
- Does the correctional setting being considered for this youth have programs that can accommodate and specifically address his or her disability?
- Does the youth have some understanding about the disability and a plan to address his or her risk-taking or illegal behaviors?
- Do parents (guardians, foster parents, or surrogates), education professionals, correctional program staff, employers, and others involved with the youth understand the youth's disability-related needs? What can they do, collaboratively, to provide the youth with supports to successfully transition back into the community, including an aftercare program?
- Are teachers or employers being provided with assistance and knowledge about the range of options they need to address this youth's disabilities or problematic behaviors?

If there is no documentation of a disability and the youth's family has not indicated a prior diagnosis, the following questions also are pertinent:

- Has the youth experienced a history of behavioral or learning problems?
- Are there aspects of the youth's behavior that warrant a screening for a disability evaluation?
- How, if at all, have these issues been addressed by the family or the school?

Source: Verbatim recommendations provided in Osher et al. (2002:3).

Table 8.2.1. Principles for Effectively Intervening with Children and Youth with Disabilities in or at Risk of Entering the Juvenile Justice System

- Develop integrated delinquency and disability prevention initiatives in schools and communities to provide appropriate services for children and youth with disabilities (e.g., programs that promote the healthy development of infants and toddlers in high-risk families).
- Provide comprehensive, needs-based services and transitional assistance before, during, and after entry into the juvenile or adult justice systems (see Figure 8.21).
- Emphasize where possible diversion from the justice system, and employ emerging promising practices, such as mental health courts, for managing and treating youth locally.
- In schools and the juvenile justice system, use objective risk and needs screening and assessments to identify and intervene with youth who are at highest risk to engage in delinquency and other negative behavioral outcomes and who have disabilities and/or special service needs.
- Develop treatment programming based on the principles of effective intervention
  - employ validated risk and needs assessment instruments and procedures
  - target and treat the criminogenic needs of juvenile offenders
  - use cognitive-behavioral approaches and other strategies appropriate to youth with disabilities to respond to the unique needs, abilities, and motivation of juvenile offenders
  - develop and apply interventions that address the particular risk and need factors and assets of particular racial/ethnic, gender, and other groups
  - rely on local, community-based services

- provide integrated aftercare services for youth released from detention and secure confinement

- Coordinate and organize the efforts of communities, schools, law enforcement, and juvenile justice, adult justice, child welfare, and social service systems.
- Implement an aggressive public outreach campaign on the needs of and effective strategies for treating or providing services to youth with disabilities in the juvenile justice system.
- Monitor and evaluate trends in the capacity of communities, schools, and the juvenile and adult justice systems to provide services to youth with disabilities to assist with decisionmaking about resource allocations and programs and policies.
- Address school system and justice system biases that perpetuate unequal access to treatment and services among youth with disabilities as well as the disproportionate confinement of these youth.

Sources: Drawn from different reviews that focus on effective strategies and principles for prevention and intervention efforts targeting juvenile offenders, and based on the authors' interpretation of these sources as they may apply to youth with disabilities: Wilson and Howell (1993); Howell (1995); Coordinating Council on Juvenile Justice and Delinquency Prevention (1996); Guarino-Ghezzi and Loughran (1996); Sherman et al. (1997); Howell and Hawkins (1998); Lipsey and Wilson (1998); Lipsey (1999a, 1999b); Cullen and Gendreau (2000); Mendel (2000); Oldenettel and Wordes (2000); Butts and Mears (2001); McCord et al. (2001).

Table 8.3.1. Effective School-Based Education Strategies

- Low ratio of students to teachers
  - More personal time for each student
  - Better behavioral gains
  - Higher quality of instruction
- Highly structured classroom with behavioral classroom management
  - Level systems provide predictable structure
  - Self-management skills are taught
  - High rates of positive reinforcement
  - High academic gains
  - Students are able to move to less restrictive settings
- Positive rather than punitive emphasis in behavior management
  - Rewards for acceptable behavior and compliance
  - Directly teach clear classroom rules
  - Begin with rich reinforcement and then "fade" to normal levels when possible (four positives to one negative)
- Adult mentors at school
  - Mentor must use positive reinforcement
  - Mentor takes special interest in child
  - Mentor tracks behavior, attendance, attitude, grades

- Mentor negotiates alternatives to suspension and expulsion

- Individualized behavioral interventions based on functional behavioral assessment
  - Identify causes of the behavior
  - Identify what is "keeping it going"
  - Identify positive behaviors to replace problems
  - Interview and involve the student
  - Use multicomponent interventions
- Social skills instruction
  - Problem-solving
  - Conflict resolution
  - Anger management
  - Empathy for others
- High-quality academic instruction
  - Direct instruction plus learning strategies
  - Control for difficulty of instruction
  - Small, interactive groups
  - Directed responses and questioning of students
- Involving parents
  - Frequent home-school communication
  - Parent education programs, provided either at school or in the community

* Source: Tobin and Sprague (2000).

Table 8.3.2. Characteristics of Successful Education Programs in Secure Facilities

- Administrators regard education as a vital part of the rehabilitation process.
- Programs help students develop competencies in basic reading, writing, and math skills, along with thinking and decisionmaking skills and character development traits, such as responsibility and honesty.
- Student/teacher ratios reflect the needs of the students.
- Academic achievement is reinforced through incremental incentives.
- Teachers are competent, committed, and trained in current research and teaching methods, rather than relying on old model drill and workbook exercises.
- Instruction involves multiple strategies appropriate to each learner's interests and needs.
- Youth are assessed for learning disabilities and provided with special education in full compliance with federal law.
- When appropriate, parents, community organizations, and volunteers are involved in the academic program.
- Opportunities exist for on-the-job training, work experience, and mentorships.
- Partnerships are developed with potential employers.
- Students are scheduled for jobs and further education prior to reentry into the community.

Source: Verbatim recommendations provided in Coalition for Juvenile Justice (2001:30-31).

Table 8.3.3. Best and Promising Transition Practices for Youth in Custody

- *Staff awareness* of and familiarity with all county, state, local, and private programs that receive and/or send youth to/from jail, detention centers, or long-term correctional facilities.
- To the extent possible, *individualized pre-placement planning* prior to the transfer of youth from jails, detention centers to the community or long-term correctional facilities.
- *Immediate transfer of youth's educational records* from public and private educational programs to detention centers or other programs to detention or long-term correctional facilities.
- In short-term detention centers, *an extensive diagnostic system* for the educational, vocational, and social, emotional, and behavioral assessment of youth.
- In long-term correctional facilities, a range of *specific educational programs* (e.g., vocational and job related skills, social skills, independent living skills, and law-related education); *support services* (e.g., work experience and placement, alcohol and drug abuse counseling, anger management, vocational counseling, health education, and training for parenthood); and *external resources* (e.g., speakers, tutors, mentors, vocational trainers and counselors, drug abuse counselors, employers, volunteers).
- *Access to a resource center*, which contains a variety of materials related to transition and support.
- *Special funds earmarked for transition and support services.*
- Regular *interagency meetings*, cooperative in-service training activities, and crossover correctional and community school visits to ensure awareness of youth and agency transition needs.

- A *process for the immediate identification, evaluation, and placement* of youth with disabilities.
- *Individualized education program* developed for each student with disabilities.
- *Individual transition plan* developed for all students which includes the student's educational and vocational interests, abilities, and preferences.
- *A transition planning team* formed immediately upon student entry into a long-term correctional facility to design and implement the individual transition plan.
- *Community-based transition system* for maintaining student placement and communication after release from a long-term correctional facility.
- *Immediate transfer of youth's educational records* from detention centers and long-term correctional facilities to community schools or other programs.
- *Coordination with probation or parole* to ensure a continuum of services and care is provided in the community.
- *Coordination between educational program and justice system personnel* to ensure that they advocate for youth with disabilities, cultivate family involvement, maintain communications with other agencies, and place students in supportive classroom settings.
- *A system for periodic evaluations* of the transition program and all of its components.

Source: National Center on Education, Disability and Juvenile Justice (2002b, 2002c) and Coffey and Gemignani (1994).

Table 9.2.1. Barriers to Addressing the Needs of Youth with Disabilities at Risk of Entering or in the Juvenile Justice System

- Many child-serving professionals have *little understanding* of how cognitive and other disabilities affect children's behavior.
- The *general public believes that young people who act out can control their actions* and simply choose to misbehave.
- *Parents are often blamed* when their children misbehave because it is assumed that they cannot control them.
- *Children with disabilities often have parents who face similar issues*, although these adults have never been diagnosed or received appropriate treatment or services.
- Policymakers, child-serving professionals, and society often do not agree that youth with disabilities *deserve specialized services*, especially when they have been charged with criminal violations.
- Policymakers generally respond to juvenile crime by passing *tougher legislation* that causes youth and adult offenders to be treated similarly.
- Families, communities, and child-serving agencies lack *appropriate information, training, and support* to help youth that have disabilities.
- *Resource limitations* force child-serving agencies to make arbitrary decisions about which youth with disabilities qualify for services.
- *Public financing generally supports restrictive, residential placements* for youth with behavioral problems, especially once they have been charged with a criminal offense.

- *The juvenile justice system is not designed to adequately identify or provide services* for troubled youth with disabilities that need specialized educational or mental health treatment and services.
- *Funding mechanisms and eligibility criteria inhibit collaboration* among the different agencies that serve youth with disabilities.
- *Comprehensive, family-oriented, community-based interventions* for youth with mental disabilities are inadequate or nonexistent.
- Agency and court personnel frequently tell families that the only way to obtain community-based mental health services for their children is to relinquish custody of them to the state.
- *Families are consequently extremely reluctant to ask public agencies for help* because they fear losing their children.
- *Families whose children are placed in the juvenile justice system find the experience so painful* and demoralizing that they frequently need help to navigate it and to obtain appropriate assistance for their children.

Source: Verbatim recommendations provided in Smith et al. (2002:4-5).

Table 9.3.1. Barriers and Critical Policy Issues Identified by Respondents

- *The conflicting orientation of the juvenile justice system, focusing on punishment and treatment of each youth's particular needs, suggests a fundamental dilemma for effectively providing services to youth with disabilities.* Historically, youth with disabilities in the juvenile justice system have been neglected in terms of federal research and programming. Special education within the juvenile justice system continues to be a low priority.

- *Educational systems increasingly are embracing more restrictive and punitive measures* (e.g., zero tolerance policies).

- *Failure to implement IDEA in schools is increasing numbers of youth with disabilities entering the juvenile justice system.*

- *There continues to be little monitoring of compliance with IDEA within correctional settings.*

- *The overall lack of coordination of services for youth with disabilities as they enter or leave the juvenile justice system is difficult to overstate.*

- *Assessment of disabilities in the juvenile justice system rarely occurs and is done poorly.*

- *Youth with disabilities are not receiving the services they should and that they are legally entitled to in schools or in the juvenile justice system.*

- *We know that effective practices exist, but there are too few systemic supports for them.* In schools, a positive climate, academic success, and individualized learning, life skills, and social programming can enhance educational outcomes. Consistent parenting and parental role modeling can improve these outcomes as well. And peers and communities can be critical, through supervision and other mechanisms, in improving both educational and delinquency outcomes. However, schools are absolutely essential. But they must

prioritize creating a supportive school environment and focusing on academic success. Too often, however, there is no one in place to build the right kinds of programs because no one wants to deal with youth who have disabilities and who may be displaying negative behaviors.

- *Schools "dumping" kids with a disability is a big concern*. There is little empirical evidence about the extent to which "dumping" is occurring. However, schools have a disincentive to identify youth as having disabilities. One respondent noted, "You'll hear it raised all the time by school officials and providers. 'I don't want to label a kid this way because then it will cost me a lot more money.'"

- *Information-sharing is a critical but complicated issue*. For the juvenile justice system to effectively address the needs of youth with disabilities, there needs to be better communication and collaboration between schools and the justice system regarding identification of disabilities and the development and implementation of educational plans. However, the schools and the juvenile justice system typically do not communicate and collaborate. Correctional facilities in particular rarely receive educational records from schools. Communication between schools and the juvenile justice system is not, however, necessarily beneficial. For example, prosecutors may misuse information about youth with disabilities. An example: In one jurisdiction, prosecutors met with school officials and developed a plan to target the "bad apples" based on information about their disabilities and the problem behaviors supposedly resulting from the disabilities.

- *Racial disparity is a critical issue*. Minority youth with disabilities are more likely to end up in correctional facilities. Moreover, disability law spells out many exceptions that can disproportionately affect minorities. For example, an expedited hearing can occur to unilaterally remove a youth from school. These hearings happen more frequently with minorities. The pattern is more pronounced with removals due to possession of weapons. In addition, poor and minority youth do not appear to be receiving their due process rights under IDEA. For example, manifest determinations for youth with disabilities who are disciplined do not happen as often as they should. The spirit of procedural rights under

IDEA is to ensure that youth with disabilities have their needs met and that these youth are not punished for their disabilities. That spirit does not seem to be reflected in current practices in schools or the juvenile justice system. Another example: "Alternative education" may sound good, but it may really translate into a means by which to "dump" poor, black youth with disabilities into the juvenile justice system or into poorly funded educational environments. The quality of special education, as well as regular education, generally is much worse for minorities. One result is poor educational instruction as well as mislabeling of youth as having disabilities when they do not or as not having disabilities when they do. The lack of diversion alternatives in the juvenile justice system has resulted in youth with disabilities being unnecessarily incarcerated. This problem is especially prevalent in Indian country where few diversion programs exist.

- *Most juvenile justice practitioners have little to no understanding or appreciation of disability issues or disability law*. Most practitioners are not trained about these issues or the relevant laws, or their relevance for addressing the specific needs of kids with disabilities. There is tremendous variation in assessment practices.

- *Few detention or correctional settings have the physical arrangements to adequately assist youth who are mobility or sensory impaired*. Also, they typically do not have adequate screening and assessment processes.

- *The transfer of youth from schools to correctional settings and back is problematic*. When youth are paroled back to the school system, they frequently are put in a one-strike position, where if they commit one infraction upon return they are sent back to a correctional facility. This process is compounded by zero tolerance laws, which are resulting in more kids being expelled for lesser offenses.

- *There are few systematic efforts among federal agencies or by other entities to document systematically and comprehensively research programming and policy issues about children and youth with disabilities at risk of entering or already in the juvenile justice*

system. The National Center on Education, Disability and Juvenile Justice (EDJJ) is one of the only sources for such information.

Source: Interviews with respondents.

Table 10.2.1. Practice and Policy Recommendations Identified by Respondents

- *Fully fund and enforce existing law to ensure that youth in schools and in the juvenile justice system receive the services to which they are legally entitled.* Have federal monitors enforce laws and cite states for lack of compliance. At present, there reportedly are not nearly enough people providing oversight and monitoring of IDEA in districts and states, especially with respect to the issue of discipline. Too many youth are being disciplined and expelled inappropriately.

- *Prevention and early intervention should be a fundamental priority.* To the extent youth with disabilities are not having their needs adequately addressed in schools, they will be more likely to act out, be tracked into under-funded programs, and eventually land in the juvenile justice system.

- *Educate the public, practitioners, and policymakers about disabilities among youth and their civil rights, which apply to youth in the juvenile justice system as well as in schools.*

- *Provide more professional development of staff in the educational and juvenile justice systems about the needs and rights of youth with disabilities.*

- *More resources for youth with disabilities are needed at all phases of the education and juvenile justice systems, including reentry into communities and schools from secure custodial settings.*

- *Greater effort should be given to encouraging communication between schools and the juvenile justice system during the transition of youth with disabilities into and out of the justice system.*

- *Policies need to emphasize systemic supports to support prevention, early intervention, and intervention practices, as well as the coordination of services among different agencies, such as education, juvenile justice, child welfare, and social services.* "We can have a bunch of good tools but they are useless without a system that is supportive."

- *Create a national commission responsible for coordinating and guiding the efforts of different federal agencies*. This commission should ensure the development of a coherent research and programming/policy approach to addressing the needs of youth with disabilities in the juvenile justice system.

Source: Interviews with respondents.

Table 10.3.1. Research Recommendations Identified by Respondents

- *Research is needed on almost all dimensions bearing on youth with disabilities in the juvenile justice system.* Better data are needed on a range of issues. Few jurisdictions or states systematically document the prevalence of youth with disabilities in their juvenile justice systems, the services provided, the impacts of these services, etc.

- *Assess the prevalence of disabilities among youth at all stages of the juvenile justice system*, including intake, probation, detention, corrections, and parole. (The Office of Juvenile Justice and Delinquency Prevention currently is conducting prevalence studies of juvenile detention and corrections. These studies will provide a foothold on estimating the numbers of youth with disabilities in the juvenile justice system.) Identify the extent of services and the demand/service gap.

- *Assess the validity of assessment procedures and instruments in the juvenile justice system.* Improve the appropriate use of assessments, realizing that "assessment" means different things and serves different purposes both in various departments within schools and across various stages of the juvenile justice system.

- *Examine the extent to which the sharing of education, as well as non-education, information occurs between schools and the juvenile justice system.* Study how exactly this information is used by prosecutors, judges, probation officers, and other justice practitioners to make better (or worse) decisions regarding the treatment of and services for youth with disabilities.

- *Identify current levels of and effective information-sharing processes, communication, and collaboration within and among juvenile justice, education, child welfare, and social service agencies.*

- *Systematically identify and study the unintended impacts associated with efforts such as full funding and implementation of IDEA.* Explore, for example, the magnitude of

misdiagnosis and overdiagnosis of youth, especially minority youth, as having disabilities when they do not. Under full funding and implementation of IDEA, it is possible that these patterns might become worse, not better.

- *Identify programs and interventions that work specifically with youth with disabilities in juvenile justice settings*. For example, what literacy models are most effective in correctional facilities? What is the best way to address co-morbidity (i.e., situations in which youth with disabilities suffer from additional problems, such as drug abuse)? (OJJDP currently is compiling a list of promising practices for working with youths with disabilities in the juvenile justice system.) Identify cost-effective programs and policies for all stages of juvenile justice (e.g., prevention, screening and assessment, diversion, sentencing, placement, detention and corrections, probation and parole). At the same time, conduct process evaluations documenting how most effectively to implement programs and policies that "work" or that are "promising."

- *Identify how many youth with disabilities are transferred to the criminal (adult) justice system and in the federal justice system*. Identify what their disabilities are, how these disabilities are addressed, and whether there are financial disincentives to identify and address disabilities at different stages of the adult and federal justice systems.

Source: Interviews with respondents.

Appendix B. Internet Resources on Youth with Disabilities and Juvenile Justice

Government Agencies	
The Center for Mental Health Services (CMHS), A Component of SAMHSA	http://www.samhsa.gov/centers/cmhs/cmhs.html
National Center on Education, Disability and Juvenile Justice	http://www.edjj.org
National Center for Juvenile Justice	http://www.ncjj.org
National Council on Disability	http://www.ncd.gov
National Institute of Corrections, U.S. Department of Justice	http://www.nicic.org
National Institute of Justice, U.S. Department of Justice	http://www.ojp.usdoj.gov/nij
National Institute of Mental Health	http://www.nimh.nih.gov
Office of Juvenile Justice and Delinquency Prevention	http://ojjdp.ncjrs.org
Substance Abuse and Mental Health Services Administration (SAMHSA)	http://www.samhsa.gov
U.S. Department of Education, Office for Civil Rights	http://www.ed.gov/offices/OCR
U.S. Department of Education, Office of Special Education Programs	http://www.ed.gov/offices/OSERS/OSEP
U.S. Department of Justice, Civil Rights Division	http://www.usdoj.gov/crt
U.S. Equal Employment Opportunity Commission	http://www.eeoc.gov
Advocacy	
Bazelon Center for Mental Health Law	http://www.bazelon.org
PACER Center (Parent Advocacy Coalition for Educational Rights)	http://www.pacer.org
National Alliance for the Mentally Ill	http://www.nami.org
National Mental Health Association	http://www.nmha.org
Data Resources	
Bureau of Justice Statistics, U.S. Department of Justice, Office of Justice Programs	http://www.ojp.usdoj.gov/bjs
Census of Juveniles in Residential Placement Databook	http://www.ojjdp.ncjrs.org/ojstatbb/cjrp
National Archive of Criminal Justice Data	http://www.icpsr.umich.edu/NACJD
OJJDP Statistical Briefing Book	http://ojjdp.ncjrs.org/ojstatbb
SRI Policy Division, Education and Human Services, The National Longitudinal Transition Study (NLTS)	http://www.sri.com/policy/cehs/dispolicy/nlts.html
Native American Resources	
The Center for Mental Health Services, A Component of Substance Abuse and Mental Health Services Administration, U.S. Department of Health and Human Services	http://www.samhsa.gov/centers/cmhs/cmhs.html http://www.mentalhealth.org/cmhs/childrenscampaign/nativeamerican.asp
Circles of Care Evaluation Technical Assistance Center (COCETAC)	http://www.uchsc.edu/ai/coc/program
Indian Health Services	http://www.ihs.gov
National Indian Child Welfare Association (NICWA)	http://www.nicwa.org
Research Centers/Projects	
Center for Behavioral Health, Justice, & Public Policy, University of Maryland School of Medicine	http://www.umaryland.edu/behavioraljustice

Center for Effective Collaboration and Practice (CECP)	http://cecp.air.org
The Civil Rights Project, Harvard University	http://www.law.harvard.edu/groups/civilrights
National Center for Mental Health and Juvenile Justice	http://www.ncmhjj.com
The National GAINS Center for People with Co-occurring Disorders in the Juvenile Justice System, Policy Research Associates, Inc.	http://www.gainsctr.com
National Technical Assistance Center for Children's Mental Health, Georgetown University Center for Child and Human Development	http://www.georgetown.edu/research/gucdc/cassp.html
Project EXCEL	http://asterix.ednet.lsu.edu/~edciweb/Programs/EXCEL
Research Centers/Projects: Juvenile Justice	
The Center on Juvenile Justice and Criminal Justice	http://www.cjcj.org
Civic Research Institute (CRI)	http://www.civicresearchinstitute.com
Coalition for Juvenile Justice	http://www.juvjustice.org
Columbia University, Division of Child Psychiatry, Center for the Promotion of Mental Health in Juvenile Justice	http://www.promotementalhealth.org
Juvenile Justice Evaluation Center Online	http://www.jrsainfo.org/jjec
Wraparound Milwaukee	http://www.wrapmilw.org
Research Centers/Projects: Education	
Center for Law and Education	http://www.cleweb.org
Positive Behavioral Interventions & Supports	http://pbis.org
Community-Based Organizations	
Communities in Schools	http://www.cisnet.org
Reference/Resource Services	
Criminal Justice Resources, Michigan State University Libraries	http://www.lib.msu.edu/harris23/crimjust/juvenile.htm
National Criminal Justice Reference Service	http://www.ncjrs.org
Legal Resources	
American Bar Association Juvenile Justice Center	http://www.abanet.org/crimjust/juvjus
Institute of Law, Psychiatry, and Public Policy, University of Virginia	http://www.ilppp.virginia.edu
Juvenile Law Center	http://www.jlc.org
National Center for Youth Law	http://www.youthlaw.org
P.L 98-527 Developmental Disabilities Act of 1984	http://thomas.loc.gov
P.L 101-336 Americans with Disabilities Act	http://thomas.loc.gov
P.L 101-476 Individuals with Disabilities Education Act	http://thomas.loc.gov
P.L 105-117 Reauthorization of IDEA	http://thomas.loc.gov

Appendix C. Interview Protocol

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Core Questions

- What have been the *documented impacts* of federal disability and juvenile justice legislation on addressing the needs of children and youth with disabilities at risk of delinquency or involved in the juvenile justice system? The needs of youth from diverse backgrounds, including tribal cultures?
- What have been the *unintended impacts* of federal disability and juvenile justice legislation on addressing the needs of children and youth with disabilities at risk of delinquency or involved in the juvenile justice system?
- What have been the primary barriers to effective implementation or attainment of intended impacts of federal disability and juvenile justice law? The primary facilitators?
- What are the best ways to improve services for children and youth with disabilities at risk of delinquency or involvement with the juvenile justice system? (Let respondents decide first, then run through the following items.)
  - federal funding for research
  - federal funding for programming (what kinds of programs?)
  - modifications to existing laws and regulations (what kind of changes?)
  - new laws (what kind?)
  - development and dissemination of standards
  - development and dissemination of curriculum for juvenile justice practitioners
  - education/training about best practices (education/training of whom? what practices?)
- What are the top three programs or policies that you would highlight as representing an effective or promising strategy for preventing, intervening with, or managing delinquency among children and youth with disabilities?

Additional Questions, Time Permitting

- What is the relative importance of prevention, intervention, and management in addressing delinquency among children and youth with disabilities?
- Are there any points or settings in the juvenile justice system that are the most challenging in addressing the needs of children and youth with disabilities? Why?
- What are the key programming and policy challenges in addressing the needs of youth with disabilities who are released from correctional facilities? Which approaches are needed to ensure that these needs are met among youth released to the community?

Questions for Select Respondents

- What is the level of funding from the U.S. Department of Education for research and programming that focuses on children and youth with disabilities and their involvement in delinquency and the juvenile justice system? Is the funding adequate to meet the Department's goals and needs?
- What exactly are the products emerging from the Department's research on disability and delinquency?
- How and where is this research being used?
- How, if at all, have the Department of Education and the Department of Justice's Office of Juvenile Justice and Delinquency Prevention (OJJDP) coordinated their efforts to focus on addressing delinquency among children and youth with disabilities and addressing the needs of children and youth with disabilities who are involved with the juvenile justice system?

Appendix D. Illustrations and Case Studies

Achievement and Learning for All Students (ALAS)

ALAS is a pilot dropout and high-risk behavior prevention program located in the Los Angeles Unified School district. Funded by the U.S. Department of Education, it is one of three national prevention programs targeting learning disabled and seriously emotionally disturbed youth. The L.A. program was designed and evaluated with a focus on 7th through 9th graders from low-income neighborhoods. These youth were also diagnosed with LD, SED, or were manifesting other severe behavioral or academic problems and were therefore at risk for school dropout.

The ALAS program consists of seven components that range from instruction of a social skills curriculum called Social Thinking Skills to daily monitoring of attendance and school performance. ALAS counselors maintain contact with each student's teachers and parents in order to provide regular and frequent feedback and to plan individualized intervention strategies. Counselors also work with community agencies (probation, gang intervention programs, Boys Club) to advocate for services for each youth. ALAS focuses explicitly on incorporating the racial/ethnic and cultural views and experiences of youth and their parents.

The program's social skills curriculum has been evaluated by the University of California and found to be significantly effective for enhancing school achievement and social behavior and reducing delinquency and drug use. The ALAS program itself has had two evaluations. One study compared the highest-risk youth in the program (not diagnosed as LD or SED) with a control group that was not participating in the program. The other study compared a special education population from ALAS with a non-participating special education cohort. In the first study, ALAS students were less likely to have dropped out of school, failed a class, have excessive absences, or to have been incarcerated (after a three year follow-up). In the second study, the special education population from ALAS was more likely to stay in school and earn a full year of graduation credits and less likely to fail classes.

Early Childhood Intervention Programs: A Case Study

Early childhood interventions are considered one of the most effective ways to promote healthy development and well-being in children living in poverty or otherwise at risk of failing in school. Early childhood intervention can be broadly defined as the provision of some combination of educational, family, health, and social services during any of the first five to ten years of life to children who face socioenvironmental disadvantages or developmental disabilities and thus are at risk of poor outcomes (Reynolds 2002). Early interventions may vary greatly in scope, target population, funding, and character of the action undertaken (Karoly et al. 1998:6). Early interventions may take the form of a public health program for prenatal care, immunization, or nutritional education, an income or in-kind support or social safety net program, or a program to promote early childhood development (Karoly et al. 1998:4-5).

Despite these differences, most early childhood interventions share the same underlying assumption that early childhood constitutes a unique period in which developmental changes occur that establish the foundation for later behavior. Neurologists have found that many environmental factors including physical, socioemotional, cognitive, and nutritional conditions can contribute to brain development, especially during the first three years of life. The first few years of childhood thus constitute a timely period of opportunity and vulnerability when numerous stressors and supports can positively and negatively affect child development (Karoly et al. 1998:2-4, 106). Recent research also has shown that individuals with learning disabilities, and reading disabilities in particular, have a different pattern of brain organization than non-impaired readers. This pattern develops in part because of the brain's interaction or lack of interaction with environmental factors. Therefore, a child may inherit susceptibility for a reading disability, but the quality of reading instruction and early educational interactions can also affect educational outcomes. Researchers have concluded from this information that an important solution to school failure and reading disabilities is early identification and intervention, with earlier intervention generally producing better results (Lyon et al. 2001:264-265, 270).

In addition to advances in brain research, there have been three major advances in research on early childhood intervention over the past decade. First, multiple studies have shown that a wide variety of programs have beneficial short- and long-term effects on child development. Studies have found that children in well-implemented intervention programs show higher levels of cognitive development and early school achievement, and therefore they are less likely to be held back or to need special education and are more likely to do better academically and to finish school. Second, the most effective intervention programs begin during the first three years of life, continue for multiple years, and provide family support. Third, the positive effects of prevention programs generate cumulative advantages such as better classroom adjustment, school commitment, less likelihood of grade retention, special education placement, and school mobility (Reynolds 2002). In addition, several studies have shown that the benefits from targeted intervention programs have the potential to generate savings to the government that exceed the costs of the programs (Karoly et al. 1998:106).

Several studies document the benefits of several model programs. Early intervention programs such as the Early Training Project, Perry Preschool, the Infant Health and Development Project, Carolina Abecedarian Project, the Milwaukee Project, and the Elmira, New York Prenatal/Early Infancy Project (PEIP) have been shown to result in beneficial effects on intelligence, rates of special education participation, incidence of grade retention, and high school graduation rates. However, there is still a great deal of research needed about why certain program designs are more effective, how intervention could best target those who would benefit the most, replicability of model programs for larger-scale programs, full understanding of all intervention benefits (intentional and incidental), and the implications of the changing social safety net (Greenwood 1999; Karoly et al. 1998:105).

Researchers recently have begun to address gaps in our understanding of large-scale, publicly funded interventions. The Chicago Longitudinal Study tracks several measures of well-being of a same-age cohort of 1,539 low-income minority children born in 1980 who participated in a preventative intervention called the Chicago Child-Parent Center (CPC) program. The CPC is the second oldest federal preschool program in the country (after Head Start). The centers provide

educational and family-support services in 24 centers in high-poverty neighborhoods, operating with funds from Title I of the Federal Elementary School Education Act. Several studies have documented the positive effects of participation in the CPC preschools. Research has shown that CPC preschool participation is associated with a significantly higher rate of high school completion, lower rates of juvenile arrest, and lower rates of special education and grade retention (Reynolds et al. 2001:2339-2346; Reynolds and Wolfe 1997). A separate study has also found that the CPC program provides economic benefits to society that exceeds the costs of the program (Reynolds et al. 2002).

Juvenile Assessment Centers: A Case Study

Juvenile assessment centers (JACs)—sometimes also referred to as community assessment centers (CACs) and juvenile community assessment centers (JCACs)—have emerged as an increasingly popular and promising means of assessing and treating youth referred to the juvenile justice system. The JAC model is based upon the understanding that at-risk youth and juvenile offenders face multiple risk factors and as these factors accumulate, levels of delinquency and problem behavior increase. As a result, many youth are involved with multiple service delivery systems including the juvenile justice, mental health, and drug and alcohol treatment systems. JACs bring these service delivery systems together into one comprehensive plan that aims to provide early intervention as well as multidisciplinary assessment and treatment. JACs typically have several goals, including providing comprehensive assessment of juvenile needs, improving case management and treatment, making efficient use of law enforcement, juvenile justice, and treatment resources, avoiding unnecessary detentions, enhancing information-sharing across agencies, and improving monitoring of system performance (Institute on Criminal Justice 1999). For children and youth with disabilities, JACs hold particular promise because they focus on assessment and linking of youth to services.

The first exploration of the JAC model occurred in Florida in 1993 when juvenile justice authorities and legislators reached the conclusion that their system for processing, evaluating, and providing intervention and rehabilitation for arrested juveniles was in need of reform (Springer et al. 1999). In response, the Florida legislature provided funding for a network of regionally-based JACs (Institute on Criminal Justice 1999). Since then, several more JACs have opened in Texas, Utah, Colorado, and Kansas (Springer et al. 1999). However, the first national examination of the JAC approach occurred in 1995 when the Office of Juvenile Justice and Delinquency Prevention (OJJDP) convened a focus group that explored the approach and examined JACs already functioning in several states. The result was a concept paper outlining the key elements of JACs. In 1996, OJJDP selected four JAC demonstration sites to explore the efficacy of this approach. Two communities, Denver, Colorado, and Lee County, Florida, were selected as "planning sites" to develop new JACs. The other two communities, Jefferson County, Colorado, and Orlando,

Florida, were chosen as "enhancement sites" to modify their assessment centers to be fully consistent with the OJJDP model (Oldenettel and Wordes 2000:2).

The OJJDP JAC model has four key conceptual elements: a single point of entry, immediate and comprehensive assessments, integrated case management, and a management information system. Youth are often involved in multiple systems that do not necessarily work together or communicate effectively. The result is gaps in services, confusion for families and youth about how to maneuver in the maze of agencies, and duplicative assessment and treatment. The JAC model seeks to create a 24-hour centralized point of intake and assessment, or a "one-stop shop" for multiple services, in order to reduce inefficiency and improve access to services.

The JAC model advocates that all participating agencies develop or adopt uniform, immediate, and comprehensive risk and needs assessments. Along with a uniform tool, the goal is consistent policies and procedures, appropriate assessment tools, and a defined scope for the assessment process (i.e., subject areas to be covered).

The OJJDP model also stresses the importance of the integrated case management. The role of the case manager in each site is viewed as crucial to effectively coordinating multiple services and developing individualized, responsive treatment plans. There is also an emphasis on identifying criteria for determining what level of case management each youth requires because not all require intensive, long-term care.

A Management Information System (MIS) is an important infrastructure in the JAC model. Case managers must be able to monitor youth involvement across multiple programs, link data across multiple agencies, and monitor trends in their caseloads. Not all of the demonstration sites have been able to create a centralized MIS, but at a minimum the demonstration sites must have an internal database to manage case information and some level of access to the information systems of participating agencies (Oldenettel and Wordes 2000:7).

The JAC model is promising, but the ultimate impact of the concept has yet to be demonstrated in general or for select populations, such as youth with disabilities or co-occurring disorders. Examinations of local JACs have revealed both positive results and potential problems. In some

states, JACs appear to have increased the flow of information on juveniles, helped link offending juveniles to needed treatment, created collaborative relationships between key agencies, and increased operational efficiency and cost savings (Springer et al. 1999:52; Rivers et al. 1998:442). Potential problems include lack of due process, net widening, unavailability of youth services especially in more rural areas, the possibility of stigmatizing youth, information confidentiality concerns, and increasing overrepresentation of minorities (Oldenettel and Wordes 2000:9-10). Some JAC locations have also experienced tension between agencies when responsibilities and procedures are not clearly defined and/or tension between correctional and treatment staff who have different philosophies about the role of the JAC (Springer et al. 1999:52-53). The end result is that some JACs are becoming holding facilities rather than centers that assess youth, look for red flags, conduct additional in-depth assessments if necessary, and make recommendations to the courts. More information on the impact of the JAC model will become available as the National Council on Crime and Delinquency (NCCD) continues its evaluation of the demonstration sites.

Mental Health Courts: A Case Study

Innovative alternative courts have emerged in the last decade in response to problems associated with traditional processes for handling juvenile and adult criminals. These problems, such as the cycling of the same offenders into and out of the courts with little or no treatment or sanction, led to interest in approaches that would reduce or eliminate these problems. The first of these innovative courts was an adult drug court created in Miami in 1989. The number of drug courts expanded rapidly, to over 500 formally designated courts in 2000 (Bureau of Justice Assistance 2000). The drug court model—which emphasizes timely and appropriate treatment and sanctioning—has since been adapted to address other problem areas for both juveniles and adults. Mental health courts, gun and teen/peer courts, and community courts are on the rise nationally. Indeed, specialized courts increasingly are being looked to as the new and better way of administering juvenile justice (Butts and Harrell 1998). Mental health courts hold considerable promise for serving youth with disabilities who enter the juvenile justice system, although some observers of the juvenile justice system point to potential problems with the implementation of these courts.

The first adult mental health court emerged in Broward County, Florida, in 1997. Four jurisdictions, in Alaska (Anchorage), Washington (King County), and California (San Bernardino County and Santa Barbara County), have implemented adult mental health courts. Recently, two juvenile mental health courts were established in Santa Clara County, California, in 2001 and Los Angeles County, California, in 2002. Representatives from agencies in these counties believe that there are a number of problems in the way that mentally ill juveniles are handled by the traditional court system. These problems include a lack of appropriate screening and assessment of juvenile offenders, a lack of mental health services for youth identified with mental illness, a lack of communication between mental health providers, probation, and aftercare providers, and a lack of coordinated treatment plans to keep youth and their families connected to services. To address these and other problems, a multidisciplinary response to these problems was needed. Mental health courts provided a framework for conceptualizing and organizing this response.

The target population of juvenile mental health courts is nonviolent juvenile offenders with serious mental illness (SMI) who have committed misdemeanors or other low-level offenses. In a traditional juvenile court, a youth under the age of 18 is charged with a crime and has a trial before a judge who decides guilt or innocence. The juvenile mental health court model does not just focus on the issue of guilt, but instead it examines the crime as a symptom of a mental illness. Its goal is to create a safety net of appropriate services for this population. The courts seek to screen all juvenile offenders, identify those with serious mental illness, and assess if they are qualified for the court. If the youth qualify, they are diverted from the regular court system. A mental health court team consisting of representatives from mental health, probation, prosecution counsel, and defense counsel then works together to coordinate individualized treatment planning and disposition. Depending on the severity of their crime, youth may be released under supervised probation to their families with court ordered services. Probation commonly includes an electronic monitoring system (ankle bracelet) and consistent appearances before the court for progress reports. Youth participation in the program ends when the juvenile has successfully completed probation, the juvenile's mental health issues have stabilized, and the program has been successfully completed; it also ends when the juvenile commits a new crime or fails to follow court orders, or the juvenile and/or parent withdraws from the program (Arredondo et al. 2001:17).

Because they are relatively new, juvenile mental health courts have not been evaluated sufficiently to document their effectiveness (Arredondo et al. 2001). However, they draw on many elements, such as timely processing and coordinated services, that have proven to be successful or promising in other specialized courts (Roman and Harrell 2001). The first two juvenile mental health courts appear to have increased communication between the mental health and justice systems, a change that is essential to the effectiveness of most specialized courts and to successful diversion efforts in general (Mears 2001).

Although mental health courts hold considerable promise, some groups express serious concerns about them. The National Mental Health Association (2001) recently expressed concern, for example, that mental health courts may play too coercive a role and may criminalize and

stigmatize persons with mental illness in the criminal justice system. A related concern is net-widening: Mental health courts might pull into the "net" of the justice system youth who in the past would never have received any type of sanction. As a result, the juvenile justice system must process even more youth than in the past, and many of these youth may acquire records of delinquency that may negatively affect them, especially in states with sentencing guidelines. The National Council on Disability (NCD) has addressed the issue of "net-widening." NCD indicated that it is of concern because police officers may arrest people whom they would have otherwise warned, told to "move on," or ignored in an effort to secure them services via the mental health court. Mental health courts may also result in people with mental illness receiving more severe sanctions for petty criminal offenses than they would have received through the regular court system. They may spend more time in jail or other secure confinement; they may find themselves under judicial supervision for a longer period of time; and they may have to plead guilty to charges that might otherwise have been dismissed. Moreover, they may not be adequately counseled by their lawyers as to these potential risks, and judges and court personnel may be giving inaccurate information concerning these risks (NCD, 2002).

Ultimately, research may show that mental health courts do not work, or that they do not work well for all youthful offenders, or for youth with specific types of mental illnesses. Even if these courts do work, implementation challenges likely will have to be overcome. For example, mental health courts are premised on effective communication and collaboration among child welfare, social service, mental health, and juvenile justice systems. Successful mental health courts must be able to address barriers such as the unwillingness of these agencies to work with one another (Mears 2001).

Multisystemic Therapy (MST)

The Home-Based Chronic Offender Program, piloted in Columbia, Missouri, and Simpsonville, South Carolina, is sponsored by the Office of Juvenile Justice and Delinquency Prevention and by other public and private funds. The target population in both sites is chronic offending youth with extensive criminal histories and previous arrests.

The program is based upon the family- and community-based treatment called Multisystemic Therapy (MST) that focuses on changing how youth function in their natural settings (e.g., home, school, neighborhoods). MST aims to promote positive behavior while decreasing antisocial behavior by using the family preservation model of service delivery. MST therapists carry small caseloads and are available 24 hours a day, seven days a week. They provide services in the family's home in order to identify family strengths and use them to develop natural support systems and remove barriers. Strict adherence to the nine core principles of the MST model by trained therapists has been shown to be a cost-effective alternative to out-of-home placements for youth presenting serious clinical problems (Henggeler et al. 1998).

The basic strategies of MST include improving caretaker discipline skills, enhancing family relationships, increasing youth association with prosocial peers, decreasing youth association with deviant peers, engaging youth in prosocial recreational activities, improving school/vocational skills, and providing long-term and ongoing aftercare. An evaluation in Missouri compared families receiving MST with families receiving individual therapy and found more positive changes in family interaction, greater reduction in parental psychiatric symptomatology, lower recidivism rates, and lower risk of rearrest in families receiving MST. The South Carolina study also reported reductions in criminal activity, institutionalization, and recidivism, more family cohesion, and decreased adolescent aggression with peers among families receiving MST.

Source: Larson and Turner (2002).

The Oregon Transition Support Initiative: The Farrell School

The Oregon Transition Support Initiative is the result of collaboration between the Juvenile Corrections Education Program (JCE) in the Oregon Department of Education, local school districts, and state corrections personnel. The Farrell School is an accredited education program with its own curriculum and academic structure that focuses on academic skills, social skills, and workplace- relevant skills. The target population includes youth between the ages of 12 and 20 of varying ethnic backgrounds who are incarcerated for violence and chronic law-breaking, including gang activity and substance abuse. Approximately 70 percent of the youth have also been eligible for services covered by IDEA.

The main goal of the program is to reintegrate adjudicated youth into the community and school system. Teaching teams, ideally consisting of two academic teachers, two vocational teachers, and one special educational teacher, develop and implement individualized academic and vocational instructional plans as well as Individualized Education Programs (IEP) if necessary. Each team works with 40-45 students and their corrections and probation staff and parents to monitor student progress and performance. Students who do not make positive behavioral choices are sent to attend the school's Problem-Solving Center (PSC) where their behavior is addressed with a problem-solving approach.

This transition model was initiated in the Farrell School, and it has been expanding throughout Oregon. The University of Oregon is currently evaluating the Farrell School's recidivism rates. Other program outcomes have been promising, including a 400 percent increase in high school diplomas and an increase in GED completion. School staff also report a significant reduction in assaults and discipline referrals.

Source: Larson and Turner (2002).

Project ACHIEVE

Project ACHIEVE is a school reform and school effectiveness program that was developed for use in preschool, elementary, and middle schools that want to implement schoolwide positive behavioral prevention programs (www.coedu.usf.edu/projectachieve). It was designed with a particular emphasis on increasing student performance in the areas of social skills and conflict resolution, improving student achievement and academic progress, facilitating positive school climates, and increasing parental involvement and support. Project ACHIEVE encourages the monthly and end-of-year data collection for student, teacher, and school outcomes in order to demonstrate program efficacy.

The program began as a district-wide training program for school psychologists, guidance counselors, social workers, and elementary-level consultants. It has been implemented in schools across the country since 1990, and Project ACHIEVE staff have presented one or more of the program's seven functional components to nearly 1,500 schools in over 40 states. Project ACHIEVE has been called a "Model Program" by the Substance Abuse and Mental Health Services Administration (SAMHSA), an "Exemplary Program" by the White House Conference on School Safety, and an "Effective School Reform Program" by the Center for Effective Collaboration and Practice, American Institutes for Research because of the positive outcomes it has had for schools and their students (SAMHSA 2002).

The Jesse Keen Elementary School became the first Project ACHIEVE school when the program's School-wide Positive Behavioral Self-Management System (SPBSMS) was implemented during the 1990-1991 school year. The school is located in an inner city warehouse district in Polk County (Lakeland), Florida. The poverty level over the evaluation period has averaged 87 percent of the student body. The school's staff has been trained in every component of the Project ACHIEVE SPBSMS program, and it has staffed a Parent Drop-In Center for parent training and outreach services.

After implementation of Project ACHIEVE at Jesse Keen, positive outcomes included a 61 percent decrease in special education referrals, a 57 percent decrease in special education

placements, a 16 percent decrease in overall discipline referrals, a 29 percent decrease in out-of-school suspensions, and a 47 percent decrease in grade retentions. Higher percentages of students scored at or above the 50th percentile in reading, math, and language standardized tests. Two other schools, Cleveland Elementary School in Hillsborough County (Tampa) Florida, and Hotchkiss Elementary School in Dallas, Texas, have been Project ACHIEVE schools for shorter periods of time. They also have collected and analyzed longitudinal data showing positive outcomes despite high student poverty and mobility rates.

Wraparound Milwaukee: A Case Study

Wraparound Milwaukee is a collaborative county-operated behavioral health care maintenance organization that provides services for children and adolescents and their families referred from both the child welfare and juvenile justice systems. Wraparound developed out of a six-year grant by the federal Center for Mental Health Services to Milwaukee County in 1994. The purpose of the grant was to fund programs that would reduce reliance on institution-based care, encourage family inclusion in treatment programs, and replace fragmented care to at-risk youth with a more collaborative approach. Wraparound Milwaukee began as a successful pilot for returning youth in residential treatment centers to the community, and developed into a Medicaid managed care program by March 1997. The program has grown substantially and is now the system of care in Milwaukee County for youth with serious emotional disturbance and their families. In its first two years (1994-1995), Wraparound Milwaukee served 175 children. That number has grown to a total of 869 youth and their families in 2001.

Wraparound Milwaukee defines its target population of youth using three qualifications: The youth has a diagnosable mental health disorder defined in the DSM-IV (fourth edition of the Diagnostic and Statistical Manual criteria for mental disorders); is involved in two or more service systems, including mental health, child welfare, or juvenile justice; and is identified for out-of-home placement in a residential treatment center or could be returned sooner from such a facility with the availability of a Wraparound Plan and services. The Wraparound Project aims to provide an individualized, comprehensive system of care for youth from diverse racial/ethnic and cultural backgrounds with complicated, multidimensional problems. The program has been described as a best practice by the Office of Juvenile Justice Delinquency Prevention (OJJDP) for working with youth with serious mental health needs in the juvenile justice system (Milwaukee County Mental Health Division 2001) and as a promising practice in children's mental health by the Center for Mental Health Services.

Among the components of Wraparound Milwaukee that have helped established it as a best practice are its extensive service network, funding methodology, administrative and community

coordination, and demonstrated positive outcomes. In 2001, Wraparound had contracts with eight lead agencies to provide care coordination services, and a network of 230 agencies offering 80 different services. At the heart of this large provider web, there are 80 care coordinators who work with small caseloads (typically eight families) arranging services from a variety of agencies. By blending system funds and maintaining a structure that is compatible with managed care, Wraparound Milwaukee has been able to provide a flexible and comprehensive array of services. Wraparound pooled nearly $31.5 million in 2001 through case rates paid by the child welfare and juvenile justice systems, receipt of monthly capitation payment for each Medicaid child enrolled, Medicaid Crisis Funds, as well as other insurance and Social Security Income payments.

Wraparound has created an environment of administrative and community coordination by involving individuals from key agencies at various levels of the project's functioning. Members of Milwaukee's mental health, public schools, probation, and child welfare agencies are members of the Partnership Council, Wraparound Management Work Group, and Wraparound Review and Intake Team. The Partnership Council is a community team that meets monthly to address issues and problems related to Wraparound. The Wraparound Management Work Group, along with the Project Director, gives the program its overall direction. The Wraparound Review and Intake Team (WRIT) reviews and approves all enrollments and disenrollments. By creating this type of collaborative atmosphere, Wraparound has gained the acceptance of the various critical agencies in Milwaukee County.

Wraparound Milwaukee has demonstrated many positive outcomes. Since its inception, the use of residential treatment has decreased 60 percent, from an average daily census of 364 youth in treatment to less than 140 (Kamradt 2000). This downward trend has continued with only 77 placements by the end of 2001 (Milwaukee County Mental Health Division 2001). Inpatient psychiatric hospitalization has also dropped by 80 percent. Clinical outcomes for youth enrolled in the program, as measured by the Child and Adolescent Functional Assessment Scale (CAFAS), improved significantly within six months of enrollment and continued to show improvement after one year. Data collected one year prior to enrollment and one year following

enrollment shows that Wraparound youth had lower recidivism rates for a variety of offenses. Continued study of Wraparound youth after two years of enrollment are planned to examine longer-term effects (Kamradt 2000). Wraparound has proven to be cost-effective: The average monthly cost per enrolled youth in Wraparound is $4,350, whereas a child in residential treatment or a juvenile facility would have cost over $7,000 (Milwaukee County Mental Health Division 2001). It is these outcomes among other features of Wraparound Milwaukee that have gained the program the reputation of being a successful approach.

Appendix E. Mission of the National Council on Disability

Overview and Purpose

The National Council on Disability (NCD) is an independent federal agency with 15 members appointed by the President of the United States and confirmed by the U.S. Senate. The overall purpose of NCD is to promote policies, programs, practices, and procedures that guarantee equal opportunity for all individuals with disabilities, regardless of the nature or significance of the disability, and to empower individuals with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

Specific Duties

The current statutory mandate of NCD includes the following:

- Reviewing and evaluating, on a continuing basis, policies, programs, practices, and procedures concerning individuals with disabilities conducted or assisted by federal departments and agencies, including programs established or assisted under the Rehabilitation Act of 1973, as amended, or under the Developmental Disabilities Assistance and Bill of Rights Act, as well as all statutes and regulations pertaining to federal programs that assist such individuals with disabilities, in order to assess the effectiveness of such policies, programs, practices, procedures, statutes, and regulations in meeting the needs of individuals with disabilities.

- Reviewing and evaluating, on a continuing basis, new and emerging disability policy issues affecting individuals with disabilities at the federal, state, and local levels and in the private sector, including the need for and coordination of adult services, access to personal assistance services, school reform efforts and the impact of such efforts on individuals with disabilities, access to health care, and policies that act as disincentives for individuals to seek and retain employment.

- Making recommendations to the President, Congress, the secretary of education, the director of the National Institute on Disability and Rehabilitation Research, and other

officials of federal agencies about ways to better promote equal opportunity, economic self-sufficiency, independent living, and inclusion and integration into all aspects of society for Americans with disabilities.

- Providing Congress, on a continuing basis, with advice, recommendations, legislative proposals, and any additional information that NCD or Congress deems appropriate.
- Gathering information about the implementation, effectiveness, and impact of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).
- Advising the President, Congress, the commissioner of the Rehabilitation Services Administration, the assistant secretary for Special Education and Rehabilitative Services within the Department of Education, and the director of the National Institute on Disability and Rehabilitation Research on the development of the programs to be carried out under the Rehabilitation Act of 1973, as amended.
- Providing advice to the commissioner of the Rehabilitation Services Administration with respect to the policies and conduct of the administration.
- Making recommendations to the director of the National Institute on Disability and Rehabilitation Research on ways to improve research, service, administration, and the collection, dissemination, and implementation of research findings affecting persons with disabilities.
- Providing advice regarding priorities for the activities of the Interagency Disability Coordinating Council and reviewing the recommendations of this council for legislative and administrative changes to ensure that such recommendations are consistent with NCD's purpose of promoting the full integration, independence, and productivity of individuals with disabilities.
- Preparing and submitting to the President and Congress an annual report titled *National Disability Policy: A Progress Report*.

International

In 1995, NCD was designated by the Department of State to be the U.S. government's official contact point for disability issues. Specifically, NCD interacts with the special rapporteur of the United Nations Commission for Social Development on disability matters.

Consumers Served and Current Activities

Although many government agencies deal with issues and programs affecting people with disabilities, NCD is the only federal agency charged with addressing, analyzing, and making recommendations on issues of public policy that affect people with disabilities regardless of age, disability type, perceived employment potential, economic need, specific functional ability, veteran status, or other individual circumstance. NCD recognizes its unique opportunity to facilitate independent living, community integration, and employment opportunities for people with disabilities by ensuring an informed and coordinated approach to addressing the concerns of people with disabilities and eliminating barriers to their active participation in community and family life.

NCD plays a major role in developing disability policy in America. In fact, NCD originally proposed what eventually became the Americans with Disabilities Act. NCD's present list of key issues includes improving personal assistance services, promoting health care reform, including students with disabilities in high-quality programs in typical neighborhood schools, promoting equal employment and community housing opportunities, monitoring the implementation of the ADA, improving assistive technology, and ensuring that those persons with disabilities who are members of diverse cultures fully participate in society.

Statutory History

NCD was initially established in 1978 as an advisory board within the Department of Education (P.L. 95-602). The Rehabilitation Act Amendments of 1984 (P.L. 98-221) transformed NCD into an independent agency.

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